

# *“How can we survive in the future?”*

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*Atrocity Crimes in Karenni State*

**A report by the Karenni Human Rights Group, the  
Karenni National Women's Organization, the Kayan  
Women's Organization & the Kayah State Peace  
Monitoring Network**

This report contains evidence of crimes against humanity  
and war crimes including graphic images of violence.

February 2023

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## Executive Summary

*“Our village has become a battleground. We have to run away and hide. Now we are IDPs. We are facing so many difficulties. We cannot live a good life. We don’t have good food or health care. The military came to our village and stole our things. They even burned down our house.... I miss my home and village. Of course I want to go back and live there. Who wouldn’t want that?”*

*(a displaced man from Deemaw Soe township)*

Following the attempted coup on 1 February 2021, thousands of Karenni people participated in the peaceful mass protest movement against military rule that spread across the country. After the regime’s brutal crackdown and killings of peaceful protestors, young people in Karenni State set up barricades and roadblocks and took up arms to defend themselves. Some joined the Karenni Nationalities Defense Forces, while others joined local Peoples Defense Forces groups.

Since May 2021 the junta has attempted to exert control over Karenni State through rapid militarization. Military reinforcements are routinely deployed across townships in Karenni State and neighboring areas. At the same time, the Burmese military has ruthlessly employed its counter-insurgency strategy known as the “four cuts.” This deliberately targets civilians, viewing them as the support base for armed resistance groups, and aims to cut off access to four essentials: food, funds, intelligence, and recruits.

As part of its collective punishment strategy, the Burmese military has occupied villages across Karenni State, razing civilian infrastructure, setting up temporary outposts, and planting landmines around villages. When soldiers from the Burmese military retreat from a village, they typically burn down civilian homes.

***The Burmese military has ruthlessly employed its counter-insurgency strategy known as the “four cuts.” This collective punishment strategy deliberately targets civilians, viewing them as an essential support base for armed resistance groups, and thereby cutting off access to four essentials: food, funds, intelligence and recruits.***

The first part of this report documents serious violations of international human rights and international humanitarian law. These include both indiscriminate and targeted attacks on Karenni civilian populations, murder and mass killings, widespread destruction of civilian property, forced displacement on a massive scale, arbitrary arrest and detention, torture and cruel treatment, sexual violence, and using Karenni civilians as forced labor and human shields.

It also describes the humanitarian crisis facing at least 180,000 Karenni internally displaced people (IDPs). More than 40 percent of the estimated total Karenni population has been forcibly displaced, the vast majority of them women and children. The five townships of Loikaw, Hpruso, Shadaw, Deemaw Soe and Pekhon have been almost entirely abandoned. Already traumatized by the violations they have experienced, IDPs live in constant fear of renewed attacks by junta forces. Many IDPs have been displaced multiple times. Junta forces continue their assaults on Karenni towns, villages, and IDP sites unabated. In many cases, IDPs’ homes have been destroyed and they have nowhere to return to. The uncertainties they face about the future are paralyzing as they struggle to maintain hope.

The second part of this report contextualizes its findings with legal analysis. In summary, it is reasonable to conclude that members of the Burmese military have committed the war crimes of attacking civilians, attacking protected objects, pillaging, murder, torture, cruel treatment and displacing civilians in Karenni State. The conduct of the Burmese military likely also constitutes the crimes against humanity of imprisonment or arbitrary deprivation of liberty, murder, torture, enslavement, other inhumane acts, and forced displacement when considered in the context of a widespread or systematic ‘attack’ against the civilian population in Burma, committed with the requisite knowledge of the attack.

The Burmese military can commit these atrocity crimes with impunity because the international community does not hold them accountable, even though it has a legal and moral obligation to do so. A series of important steps must be taken to ensure that individual perpetrators from the Burmese military are held accountable. This includes referral of the situation in Burma to the International Criminal Court, which provides a pathway to justice and reparations for the thousands of victims. Without justice and accountability, there can be no lasting peace for Karenni communities.

This report also urges the international community to take action beyond mere ‘statement diplomacy’ to protect the thousands of civilians who live with the daily threat of being murdered by the military regime. This should include imposing a coordinated global arms embargo on the Burmese military and sanctioning aviation fuel supply in a bid to end deadly airstrikes on civilian populations.

## The Report in Numbers

Between May 2021 to September 2022, we documented the following:



Over 180,000 Karenni civilians forcibly displaced since May 2021; more than **40 percent** of the total Karenni population.

May 2021

At least 85 Karenni civilians killed by mortar shelling, including women and children. There were 240 injured in the crossfire.

September 2022

**6+** civilians killed, including three children, and nine injured in regime airstrikes on five different villages in Hpruso, Loikaw and Deemaw Soe townships.

**22+** landmine explosions that killed four civilians and seriously injured 70, including children.

**65+** Karenni civilians, including women and children, abducted by Burmese military soldiers and used as forced labor and human shields. Four died while being forced to serve as human shields.

**260**

civilians, including 33 women, arbitrarily arrested and detained by the regime.



**115**

civilians unlawfully killed in military custody; **Three mass killing incidents** were perpetrated by Burmese military soldiers in Hpruso, Deemaw Soe and Loikaw townships.

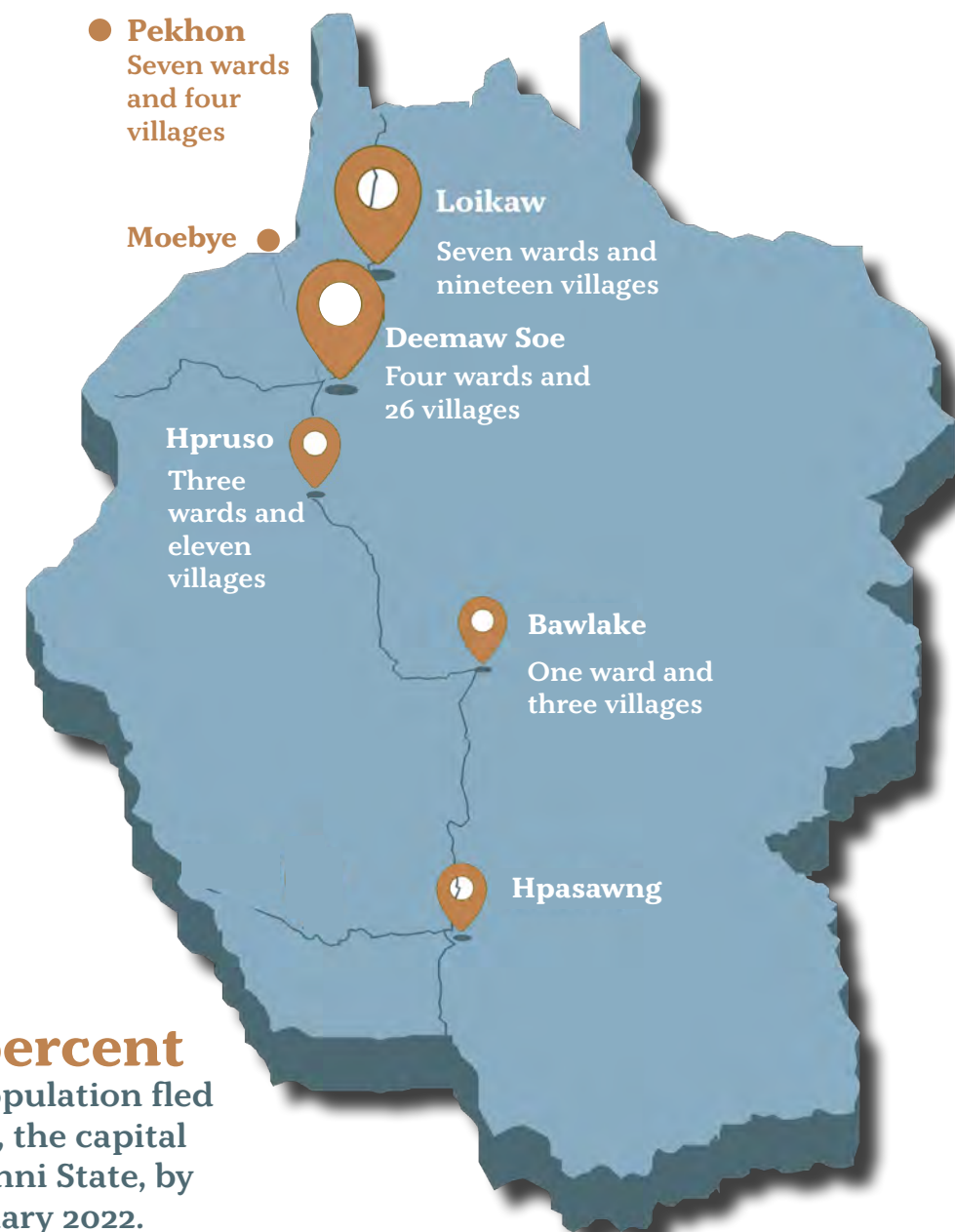
**1190**

**1,190** homes in **87** Karenni towns, wards and villages heavily damaged or completely destroyed by junta forces.

**33**

**33** religious buildings and **four** clinics heavily damaged or destroyed by junta forces.

The following townships and villages were heavily damaged or destroyed by the junta:



**85 percent** of the population fled Loikaw, the capital of Karenni State, by January 2022.

## Key Recommendations to the International Community

### To the International Community

1. In line with obligations under UNSCR 1325, fully integrate the gender perspective in responding to the conflict and humanitarian crisis in Burma. Pay particular attention to protection of the rights of women and children, prevention of sexual and gender-based violence, equal participation for women as key stakeholders in decision-making processes, and the rehabilitation needs of women and children;
2. Consult with local civil society organizations for accurate, up-to-date information about the humanitarian crisis and human rights situation on the ground in Karenni areas;
3. Avoid channelling humanitarian aid via international bodies required to sign a Memorandum of Understanding with the junta. Provide direct funding to local civil society and community-based organizations for the distribution of cross-border humanitarian aid, to minimize overheads and maximise support reaching the internally displaced populations in Karenni areas;
4. Increase direct funding and support to local civil society and community-based organizations to meet the following needs of internally displaced populations in Karenni areas:
  - Sufficient nutritional food rations, clean water supply, shelter materials and sanitation facilities;
  - Healthcare assistance, medicines and medical supplies, including dignity and personal hygiene kits, delivery kits, nutrition packs for children and the elderly, as well as sexual and reproductive health services for women;
  - Psychosocial support and trauma healing for displaced communities, including for victims of torture and sexual and gender-based violence;
  - Rehabilitation and physiotherapy support for victims with life-changing injuries and disabilities;
  - Special considerations for women's safety and dignity in temporary shelters and communal areas of IDP sites;
  - Education assistance for children and young people.
5. Increase funding to local civil society organizations for human rights education, human rights documentation, and advocacy work, coupled with targeted long-term psychosocial assistance for victims of torture and sexual and gender-based violence to support and empower them to speak out about the violations they have experienced;
6. Impose further coordinated targeted sanctions against the military and its leadership, specifically targeting Myanmar Oil and Gas Enterprises;
7. Impose a coordinated comprehensive global arms embargo on the Burmese military;
8. Sanction aviation fuel supply to the Burmese military to limit its ability to launch airstrikes against civilian populations, including IDPs;
9. Support international justice and accountability efforts by:
  - Recommending the International Criminal Court accept the declaration lodged by the National Unity Government of Burma, under Article 12(3) of the Court's Rome Statute, accepting the Court's jurisdiction concerning international crimes committed in Burma territory since 1 July 2002;
  - Proposing a UN Security Council resolution that refers the situation in Burma to the International Criminal Court;
  - Publicly supporting the creation of an ad hoc international tribunal through the UN General Assembly or UN Human Rights Council, should a UN Security Council resolution on ICC referral fail;
  - Exercising universal jurisdiction to investigate any individual from Burma – irrespective of position or rank – who may be responsible for committing genocide, war crimes, and crimes against humanity under international law, including in Karenni State.



## Methodology and Challenges

As Karenni civil society organizations - the Karenni Human Rights Group (KnHRG), Kayan Women's Organization (KyWO), Karenni National Women's Organization (KNWO), and Kayah State Peace Monitoring Network (KSPMN) - we work for our communities. This report is dedicated to all Karenni communities affected by military violence in Burma.

In this report we present the research findings and analysis of human rights violations amounting to atrocity crimes committed by members of the Burmese military between May 2021 to September 2022 in Burma's Karenni State. Fieldworkers from our four organizations conducted the research for this report. These trained fieldworkers are all from the Karenni community and have long-standing knowledge and experience of the situation on the ground. They share the language and culture and know the geographical area very well. They also have a deep understanding of how military violence has affected local Karenni communities.

The primary research was conducted in Karenni State and neighboring areas, including active conflict zones, through interviews and focus group discussions. Although this involved a high degree of personal risk, the interviews were conducted in safe and secure locations with the informed consent of the civilians who spoke to our fieldworkers. Their experiences are included in case studies which provide insights into the horrors being lived on the ground in Karenni areas.

Fieldworkers recorded victim and witness testimonies and collected photo and video evidence of the destruction caused by junta forces. During the interviews, the fieldworkers took care to avoid re-traumatizing victims. Breaks were taken as needed and individuals were supported with encouragement and empathy.

The data collected primarily covers the period from May 2021 – September 2022, unless otherwise stated. The data was documented, organized and analyzed in Burmese separately by each of our four Karenni organizations before being translated into English and edited to produce this report.

This report purposefully omits known details because they could put people at increased risk. All victims' names have been changed and village names have been redacted to protect the victims, their families, and communities from reprisal attacks by junta forces.

The human rights documentation in this report is contextualized with legal analysis, which considers the long-standing challenge of ending impunity for atrocity crimes in Burma. It addresses how the military perpetrators may be held accountable for their crimes through international efforts for justice and accountability.

### Challenges

Burmese military soldiers commit conflict-related sexual violence with impunity, often in the form of gang-rape. Women and girls face serious risks and threats to their physical and mental well-being due to conflict-related sexual violence. However, it was difficult for our researchers to document and report on individual sexual violence incidents for several reasons. Firstly, sexual violence is significantly underreported.<sup>1</sup> Social stigma surrounding sexual violence remains, so survivors are understandably reluctant to share their experiences. There is no perceived benefit to speaking out, as survivors face the prospect of double-victimization: first at the hands of military rapists, with little prospect of justice or reparations, followed by the heavy burden of victim-blaming and shame. Traumatized survivors often feel hopeless and believe it is better to keep quiet about what they experienced, otherwise they may not be able to resume any kind of normal life. Moreover, they sometimes can't find the words to describe what happened to them and they lack access to much-needed ongoing psychosocial support. Secondly, even when victims have shared their experiences with us, they withheld consent for the case to be included in reports (even with key details redacted to protect their anonymity). Due to these challenges, this report describes the pattern of sexual violence in Karenni State as reported by survivors and witnesses, rather than individual cases. The impacts of armed conflict are also presented through a gendered lens.

Another challenge was documenting the number of civilians arbitrarily arrested and detained. According to our records, the regime arrested 260 people during the reporting period May 2021 – September 2022. However, this number should be considered a minimum estimate; the true figure is likely to be much higher. It is sometimes difficult to get accurate information at the point of arrest due to the security risks involved. Sometimes civilians are disappeared and we only learn about their arbitrary arrest and detention at a later date. Due to limitations in monitoring, it is unknown exactly how many of those detained were later released from military custody.

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1. See for example, media briefing by the Independent Investigative Mechanism for Myanmar, "[Myanmar: Increasing evidence of crimes against humanity since coup](#)" (12 September 2022).

## Background

Civil war has been waged in Burma at varying degrees of intensity for more than seventy years. Since Burma's independence in 1948 from the British, the Burmese military has engaged in active conflict with Ethnic Revolutionary Organizations (EROs). Armed clashes have taken place over territory control and access to resources. A decades-long bid for ethnic peoples' self-determination has come at the cost of many civilian lives.

The Burmese military has a long and dark history of perpetrating atrocity crimes against civilians in their quest for power and profit. Successive military regimes have attempted to advance policies of 'Burmanization' in an effort to impose the language, identity and religious beliefs of the Bamar majority while simultaneously attempting to destroy the distinct identities of ethnic people through military occupation and social and economic exploitation.

The political reform and peace process launched in 2011 under the leadership of ex-military general President Thein Sein was lauded by many in the international community. The dominant narrative about Burma



**Photo:** A Myanmar military guard of honour marches during a ceremony to mark the 71th anniversary of Martyrs' Day in Yangon on July 19, 2018. - Myanmar observes the 71th anniversary of Martyrs' Day, marking the assassination of independence heroes including Aung San Suu Kyi's father, who helped end British colonial rule. (Photo by YE AUNG THU / AFP via Getty Images)

was that it was undergoing a rapid transition to peace and democracy. The first unfettered democratic elections in twenty-five years in November 2015 seemed to indicate willingness on the part of the military to step aside for the National League for Democracy (NLD) political party led by Nobel Laureate Daw Aung San Suu Kyi. By that time, eight EROs had also signed a Nationwide Ceasefire Agreement.

However, Burma's military-drafted 2008 Constitution ensures that the army and its Commander-in-Chief in particular continue to wield enormous power. The legal system in Burma enshrines impunity for perpetrators of atrocity crimes. The military-drafted 2008 Constitution, 1959 Defense Services Act and Law No. 25/2016 Presidential Security Act provide for immunity from prosecution to all past and present military personnel and government officials for acts committed in the course of their duties. The Constitution also guarantees the military control over its own judicial processes via an opaque court martial system, which is beyond civilian oversight. National courts have no jurisdiction over the military and are stacked with junta-appointed judges. This deeply-entrenched system of impunity for the Burmese military means that there is no prospect of justice and accountability via the domestic legal framework for survivors of atrocity crimes, including sexual violence.

Against the backdrop of the flawed peace process, armed conflict was still being waged in Burma's border areas, including southeastern Burma. Emboldened by impunity, Burmese military soldiers continued to perpetrate atrocity crimes against many ethnic communities, including the Karen and Kachin. During this period, the brutality of the Burmese military culminated in its genocidal 2016-2017 'clearance operations' against the Rohingya in Rakhine State.



In November 2020, the National League for Democracy (NLD) won a general election by a landslide. Given the immense popularity enjoyed by Daw Aung San Suu Kyi and the National League for Democracy, it is perhaps unsurprising that the Burmese military felt threatened by this, in spite of the former's defense of the military's actions.

The Burmese military attempted to seize power in a coup staged on 1 February 2021. Thereafter, the military has continued to wage a violent campaign of terror against a largely unarmed civilian population who has contested their illegal bid for power. By failing to respect the results of the election, the junta has demonstrated that they are not interested in pursuing any pathways to meaningful reconciliation and dialogue, nor can they be relied upon to do so. The complete and utter derailment of prospects for peace in Burma has led to mass displacement amid a crippling economic crisis and a lack of civilian oversight across all social and government sectors.

Immediately after the coup, civilians did not hesitate to protest in the thousands in major cities, such as Yangon and Mandalay, but also in smaller townships across the country. People of all ages, backgrounds, and ethnicities rallied to condemn the coup and show their disdain for the military. Thousands of government sector workers resigned in protest, refusing to work for the military junta. They included doctors, teachers, and engineers who became part of a broader movement called the Civil Disobedience Movement (CDM).

On 5 February 2021, the Committee Representing Pyidaungsu Hluttaw (CRPH), a Burmese legislative body in exile representing National League for Democracy members of parliament ousted during the coup, was founded. In April 2021, the CRPH established the National Unity Government (NUG). The NUG is formed of 2020 elected NLD members of parliament, human rights defenders, and ministers from the previous NLD administration. It is headed by Daw Aung San Suu Kyi as State Counsellor, although she is currently detained in military custody. It seeks to legitimately represent the people and State of Burma and stands in opposition to military rule. The National Unity Consultative Council (NUCC) was formed in November 2021. It is a broad-based anti-regime alliance that includes the CRPH, as

*The complete and utter derailment of prospects for peace in Burma has led to mass displacement amid a crippling economic crisis and a lack of civilian oversight across social and government sectors.*

well as ethnic revolutionary organizations (EROs), political parties, general strike organizations, CDM groups and other civil society organizations.

The impacts on civilians in the aftermath of the coup have been brutal. Thousands have been arbitrarily arrested and detained and are facing charges in a hijacked legal system stacked with junta-appointed judges. Several thousand are estimated to have been killed by regime forces. Countless people have lost their homes, businesses, and livelihoods in the wake of the junta's vengeful attacks.

Since the attempted coup, the junta's mismanagement of the economy also negatively impacts civilians. Not only has the kyat's value dropped, but inflation continues to rise as the junta has limited imports and exports. With no economic growth and limited availability of goods, the Burmese military is forcing market prices to hit an all-time high. As the lack of economic growth threatens job security, civilians struggle to survive on low daily labor wages. The daily wages are simply not enough for one person to live on, let alone support an entire family.

The deeply rooted traumas and insecurities experienced by women over decades of sexual and gender-based violence have only been exacerbated since the attempted coup. With violence increasing all over the country, sexual violence against women and girls is a reoccurring crime perpetrated by the Burmese military. The weak laws from previous administrations did not offer enough protections for women and, ultimately, led to more sexual violence.<sup>2</sup> After the attempted coup, the number of cases of sexual violence quickly increased as the Burmese military's campaign of violence created a state of lawlessness.<sup>3</sup>

Junta forces continue to launch major offensives in ethnic areas as well as unrelenting air strikes, causing hundreds of thousands to flee in search of shelter. As a result of the increasing offensives, the number of refugees is steadily increasing on Burma's borders with Thailand, China, India, and Bangladesh. More than one million people have been internally displaced since the attempted coup on 1 February 2021.<sup>4</sup> Whenever there is armed conflict, women and children suffer the most. The majority of those who have become IDPs are women and children.<sup>5</sup> While thousands seek refuge, the regime has responded by blocking humanitarian aid to the most vulnerable.<sup>6</sup>

2. [Preventing Gender-based Violence in Myanmar \(idea.int\)](https://www.idea.int/glossary/term/preventing-gender-based-violence-in-myanmar)

3. Southeast Asia Globe, ["As the crisis in Myanmar continues, no justice for victims of sexual violence"](https://www.sea-globe.org/en/2022/10/05/as-the-crisis-in-myanmar-continues-no-justice-for-victims-of-sexual-violence) (5 October 2022).

4. UNOCHA, 'Myanmar: Humanitarian Update No. 25' (30 December 2022).

5. ["Displaced Women, Children Face 'Humanitarian Crisis' Following Myanmar Coup."](https://www.rfa.org/english/news/2021/05/13-displaced-women-children-face-humanitarian-crisis-following-myanmar-coup-20210513080000.html) Radio Free Asia, 13 May 2021

6. <https://www.hrw.org/news/2021/12/13/myanmar-junta-blocks-lifesaving-aid>

## Overview of the Situation in Karenni State

Karenni (Kayah) State is a small state situated in eastern Burma, with an approximate population of 300,000. Another estimated 120,000 Karenni people live in the Pekhon township area to the northwest of the geographic boundary of Karenni State.<sup>7</sup> As in other ethnic areas of Burma, the Burmese military has a long history of committing human rights violations with impunity against Karenni people. These include land confiscation, arbitrary arrest and detention, forced labor, and sexual violence. Sporadic armed clashes also took place between the Karenni Army (an Ethnic Revolutionary Organization or ERO) and the junta for decades.

Following the 2012 bilateral ceasefire agreement between the Karenni National Progressive Party and its armed wing the Karenni Army and the Burmese military, Karenni people felt relatively safe compared with the current situation.



7. Pekhon township is home to the Kayan, one of the Karenni ethnic groups. It is regarded as part of the historic Karenni homeland but is within the current geographic boundaries of southern Shan State.

Karenni people still had to contend with human rights abuses, such as demands for arbitrary taxation by ethnic armed organizations and issues related to land confiscation by the Burmese military.<sup>8</sup> Access to health and education were challenging, due to the failure of successive governments to allocate adequate budget and resources to these sectors in ethnic areas, including Karenni State. However, residents could travel safely throughout the State without overwhelming fears of arbitrary arrest or being shot to death at a military-run checkpoint. The scale of human rights violations perpetrated against civilians was not the same as it is now.

Following the attempted coup on 1 February 2021, thousands of Karenni people participated in the peaceful mass protest movement against military rule that spread across the country. After the regime's brutal crackdown and killings of peaceful protestors, young people in Karenni State set up barricades and roadblocks and took up arms to defend themselves. On 20 May 2021 junta forces arrived in Deemaw Soe township, arrested several young people, and fired indiscriminately at civilians. This prompted fierce fighting between the joint forces of the Karenni Army and the Karenni Nationalities Defense Forces (KNDF), an armed group formed in the aftermath of the coup, and the Burmese military. Clashes continued every day until the end of June 2021, when a ceasefire was negotiated between the religious leaders and various armed groups. However, by September 2021, armed clashes had resumed.

Since May 2021 the junta has attempted to exert control over Karenni State through rapid militarization. Military reinforcements are routinely deployed across townships in Karenni State and neighboring areas. At the same time, the Burmese military has ruthlessly employed its counter-insurgency strategy known as the "four cuts." This deliberately targets civilians, viewing them as the support base for armed resistance groups, and aims to cut off access to four essentials: food, funds, intelligence, and recruits.

As part of its collective punishment strategy, the Burmese military has occupied villages across Karenni State, razing civilian infrastructure, setting up temporary outposts, and planting landmines around villages. Junta forces have also conducted both indiscriminate and targeted attacks on Karenni civilian populations. The junta's military expansion and attacks on Karenni civilian populations have forced civilians to abandon their livelihoods and flee their homes in search of safety.

8. See for example the 2019 case of 41 Karenni farmers from Loikaw and Deemaw Soe townships who were arrested and sentenced for reclaiming and reusing their lands previously confiscated by the military. Coalition of Indigenous Peoples in Burma/Myanmar, 'Joint submission to the UN Universal Periodic Review of Myanmar July 2020', 7 [27] 10 [43].



The regime attempts to justify its assaults on civilians in Karenni State by claiming it is targeting the Karenni armed resistance. In reality, internal displacement sites and temporary shelters have been the targets of unrelenting air and ground attacks. Women, children, and the elderly are at high risk of being killed or seriously injured amid the offensives.

At least 180,000 Karenni civilians are estimated to have been forcibly displaced, although the true figure may be higher. Up to seventy percent of Karenni IDPs are estimated to be women and children, but their needs are often overlooked.<sup>9</sup> The five townships of Loikaw, Hpruso, Shadaw, and Deemaw Soe and Pekhon have been almost entirely abandoned. Heavy fighting between junta forces and the Karenni Nationalities Defence Forces, other local PDF groups, and the Karenni Army continues to occur regularly along the southern border area and in Deemaw Soe, Loikaw, Hpruso, and Pekhon townships.

The next section of this report documents the human rights violations perpetrated by the junta forces against Karenni civilians since May 2021.



**Photo:** A shelter at a displacement camp.

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9. The Karenni women's groups estimate that women comprise 35-40% of the IDP population and children 30%.



**Photo:** Unexploded ordnance discovered by resistance forces.



# Human Rights Violations in Karenni State

Human rights violations documented in this report include sexual violence, arbitrary arrest and detention, torture, unlawful killings (including mass killings) forced labor and the use of human shields, destruction of homes and other civilian property, as well as indiscriminate attacks and deliberate attacks on Karenni civilians, all resulting in forced displacement on a massive scale. At least 180,000 Karenni people - more than 40 percent of the estimated total Karenni population - have been forcibly displaced, the vast majority of them women and children.<sup>10</sup>

Such violations amount to war crimes and crimes against humanity committed by junta forces against the Karenni people, discussed in detail in the international legal framework and analysis section of this report.

## Conflict-related Sexual Violence Against Women

Sexual violence and rape perpetrated in the context of an internal armed conflict are war crimes. When committed as part of a widespread or systematic attack against a civilian population, rape and sexual violence may also reach the threshold of crimes against humanity.<sup>11</sup>

Karenni women have suffered from military violence for decades. Wherever there are armed men in a conflict setting - no matter their affiliation or allegiance - women are at risk of sexual violence. While these experiences are not new to Karenni women, the brutality has only increased since the attempted coup. The attacks on women's peace and security take many forms. Due to the heavy militarization and armed clashes in Karenni State, women have lost their freedom of movement. It is not safe for them to carry out their daily activities, including their livelihoods. Women have been killed and seriously injured in air and ground attacks and have suffered life-changing injuries caused by landmines.

Conflict-related sexual violence is a growing threat to women's safety, particularly as junta forces expand their presence in civilian areas. Women and girls constantly worry that Burmese military soldiers will force them to be human shields. Whenever a woman is in any kind of military custody, she faces the prospect of sexual harassment and other forms of sexual violence, particularly rape and gang-rape. Female humanitarian workers and Civil Disobedience Movement leaders are expressly targeted for arbitrary arrest and detention.

10. The total Karenni population is estimated at 420,000, based on the population of Karenni State and the estimated Karenni population of Pehon township in present-day southern Shan State. This area is home to the Kayan, one of the Karenni ethnic groups. It is regarded as part of the historic Karenni homeland. Up to 70% of the IDP population are estimated to be women and children.

11. Articles 8 (2)(e)(vi)-1,-2,-6 and Articles 7 (1)(g)-1,-2,-6 of the ICC Rome Statute.



**Photo:** Since IDPs lack access to clean water, they are forced to retrieve dirty water from nearby water sources.

*"It is not safe or secure for women to travel alone because they could be hit by a bullet anytime. She could also face sexual violence. If she is attacked, there is no law to protect her. There are only traditional practices that are not good or effective. In the law, women are always disadvantaged. There is no justice for women. In addition to that, women are also facing gender discrimination in their communities," said a displaced woman living in Hpruso township on 3 August 2022.*

Women detainees and women taken for use as forced labor and human shields are at high risk of gang-rape perpetrated by junta soldiers. However, it is very difficult to document these cases. Women who have been released are reluctant to describe their experiences in detail, not only due to the risk of re-arrest but also because of the social stigma surrounding sexual violence and the fear of being ostracized. They are traumatized and lack access to psychosocial support.

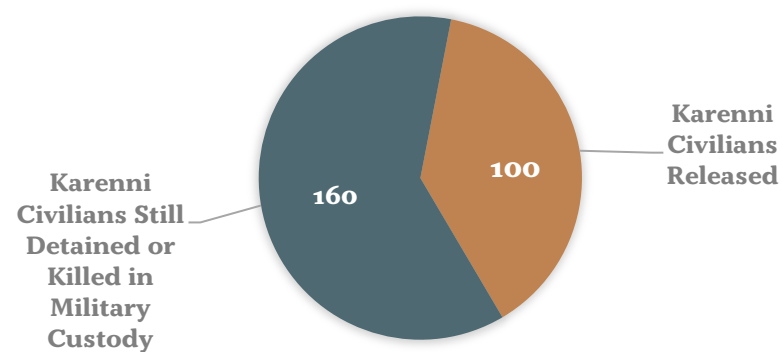
Since women do not have any reliable protection pathways or systems available for their safety and security, it has become a double burden. They are suppressed by the Burmese military and the deeply entrenched patriarchal systems. Women-led organizations in Karenni State have attempted to support victims. Still, they are struggling amid a nationwide lack of rule of law and corruption in the military-run courts.

## Arbitrary Arrest and Detention

We have documented the arbitrary arrests of at least 260 Karenni civilians including 33 women by junta forces throughout Karenni State and Pekhon township in southern Shan State. However, the true figures are likely to be higher, particularly for women, due to the challenges with reporting and documenting arbitrary arrest and detention cases.

After being arrested, most Karenni civilians are detained, tortured, or even killed. A small number of civilians were able to escape a similar fate by bribing military officials, but this is unaffordable for most Karenni people. We estimate that only around 100 of those arrested have subsequently been released. The rest remain arbitrarily detained or have been killed in military custody. Dozens of Karenni civilians have been killed by soldiers shortly after their arrest or died due to life-threatening injuries sustained under torture, described in more detail below.

### ARBITRARY ARRESTS OF KARENNI CIVILIANS



Victims of arbitrary detention include ordinary civilians, peaceful pro-democracy demonstrators, CDM participants such as teachers and medical personnel, and humanitarian aid workers. The military junta has made it clear that no one is allowed to provide aid to internally displaced persons (IDPs), even going as far as limiting the amount of medicine a person is allowed to carry. In an attempt to justify arrests of humanitarian aid workers and volunteers, the regime accuses them of working with the local PDF and participating in the resistance movement. Young men and women can be stopped and questioned at any time while traveling on foot, or at military checkpoints set up along the roadside. Many have been arrested simply for supporting rather than actively participating in what the junta perceives to be anti-regime activities, such as the CDM, peaceful protests, or providing humanitarian aid to IDPs. Soldiers routinely search through mobile devices, examining social media activity for photos and messages as 'evidence' of such support.

Arbitrary deprivation of liberty is prohibited under customary international law. A person is considered to have been arbitrarily detained when one or more of the following applies:

- the person arrested or detained was exercising a right guaranteed by international law
- there is no legal basis for their arrest or detention
- the domestic legislation used to justify arrest and/or detention does not comply with international human rights standards
- international norms on the right to a fair trial are not followed.<sup>12</sup>

Since the attempted coup, Karenni women are increasingly taking up leadership positions in the CDM movement. By refusing to be silent as their rights are systematically abolished, their growing presence at the forefront of the CDM has meant that an increasing number of women are being targeted for arrest and detention by the Burmese military. Some women cannot be located because they disappeared after their arrests. In other cases, women are still in military custody at detention centers.

Field staff reported that in the first week of October 2022, 10 youths were arrested at a military checkpoint in Loikaw township, about half of them young women. Their whereabouts are unknown at the time of writing.

The Burmese military treats all young Karenni people as though they are members of the armed resistance and targets them based on their identity, without any concrete evidence of their alleged crimes. As there is no rule of law, the Burmese military can falsely accuse any Karenni person of a crime that they did not commit. Most of those targeted for arrest belong to the 16-35 years old age group due to age and ethnic discrimination. Many face allegations of belonging to or actively supporting anti-junta armed groups, such as the Karenni Army, Karenni Nationalities Defense Force or other local PDF group.

Sometimes, arbitrary arrest and detention is used to intimidate Karenni civilians and instill fear. Once arrested, detainees are routinely forced to endure dehumanizing acts of torture and cruel treatment while in military custody. For example, on 21 May 2022, soldiers from LID 66 arbitrarily detained 10 villagers - including two women and one child - near Hpruso township. The soldiers gathered the 10 civilians in one place and interrogated and tortured them for a whole day by hitting them with guns and kicking them. The soldiers finally released the group at the end of the day.

12. ND-Burma, "Human Rights Documentation Manual Series: Documenting Arbitrary Arrest and Detention in Burma" (October 2008). See also UN Working Group on Arbitrary Detention, 'Deliberation No. 9 concerning the definition and scope of arbitrary deprivation of liberty under customary international law' (24 December 2012) UN Doc A/HRC/22/44.



Of those that remain detained, we estimate that at least 200 people have been charged, most commonly under Article 17/1 of the Unlawful Association Act for alleged support of ‘terrorist’ organizations and Section 505 of the Penal Code, which criminalizes peaceful dissent and freedom of expression.<sup>13</sup> Sentences range between three to twenty years of imprisonment. In Karenni State, two civilians have been sentenced to death.

Due to their traumatizing experiences, most Karenni people who have been released refuse to talk about what happened during their arbitrary arrest and subsequent detention. Talking about their experiences in military custody carries the grave risk of re-arrest and further torture and cruel treatment, should the junta find out through their network of informers. Even if former detainees go into hiding, their family members might be targeted.

Despite the risk of re-arrest, 12 interviewees shared their experiences of detention on Burmese military bases, described below.



**Photo:** *The body of a Karenni civilian burned by Burmese troops.*

13. Two weeks after the attempted coup, the junta amended article 505 of the Penal Code to significantly broaden its scope and silence its critics. See Free Expression Myanmar, “505A Act of Revenge: Review of Myanmar Coup Speech ‘Crimes’” (January 2022).

## *Torture and Cruel Treatment*

Torture is prohibited under international human rights law and may amount to a war crime or crime against humanity. Torture is usually defined as severe physical or mental pain or suffering, inflicted intentionally with a particular prohibited purpose. Examples of such purposes include to punish, to intimidate or coerce, to obtain information or a confession, or for any discriminatory reason. Some examples of acts of torture include brutal beatings that inflict wounds or injuries and being tied up for prolonged periods. Other forms of physical and mental abuse may amount to cruel treatment. Under international law the difference between torture and cruel treatment is a lesser requisite level of pain or suffering and the lack of a prohibited purpose.<sup>14</sup>

Released detainees who were interviewed for this report shared their own experiences as well as some of what they witnessed while in police or military custody. Their experiences fit a pattern documented across the country. At the point of arrest people are either killed immediately or taken to a military detention center where soldiers subject them to brutal beatings and other forms of torture while interrogating them. They are then charged and transferred to prison, where the flawed judicial process begins.<sup>15</sup>

In the first case described by interviewees, a group of Karenni men were arbitrarily arrested in 2021. Some were killed on the spot, while the rest were sent to a military detention center in Loikaw where they were tortured. In a separate case in 2021, a young man from Hpruso township described being arrested and detained at the police station in the town where he was brutally punched and kicked. The next day he was transferred to a military detention center in Loikaw where the torture continued, this time during interrogation by soldiers.

Karenni civilians also face torture while being used as forced labor and human shields, described in more detail below. Torture survivors suffer both physically and mentally and are left traumatized by their experiences. There are no programs or psychosocial support systems in place to help them cope with their fear and trauma.

14. ND-Burma, “Human Rights Documentation Manual Series: Documenting Torture and Other Forms of Ill-Treatment in Burma” (November 2008).

15. See Assistance Association of Political Prisoners-Burma, “Accountability for the Junta Criminals”: Evidence of Crimes Against Humanity Perpetrated by the Armed Wing of the Junta in Burma Since the 2021 Coup (July 2022) and Fortify Rights, “Nowhere is Safe”: The Myanmar Junta’s Crimes Against Humanity Following the Coup d’Etat’ (March 2022).



## Unlawful Killings in Military Custody

Killings are considered “legal” in only a few circumstances, such as when the person is killed while engaging in active combat or under the death penalty after a fair trial. Other killings are unlawful.<sup>16</sup>

Through September 2022, we documented that the junta unlawfully killed 115 civilians in their custody after arbitrarily arresting and detaining them. As described above, sometimes soldiers kill them either immediately or soon after arresting them. One emblematic case is the arbitrary detention and unlawful killing of “Maung”, a concerned Karenni citizen who voluntarily provided assistance to IDPs.

In November 2021, the Burmese military entered Maung’s village in Pekhon township in southern Shan State. Upon discovering Maung’s voluntary work with IDPs, he was arbitrarily arrested and taken into military custody. A close relative explained:

“I felt really sad when Maung was arrested, I tried to ask permission to go and meet him but I was not given an opportunity. After one week, I heard a rumor that he was taken away to be used as a human shield. I didn’t believe it.”

On 29 November 2021, Maung’s body was discovered a short distance away from his village. The level of decomposition made it difficult to identify him, but signs of severe torture were still evident on his body. Another relative reflects on the day Maung’s body was recovered:

“My husband and I went to do some work in Village A, and I remember a weird smell. Afterward, when people went there, they found the body near the spot where I had this bad smell. I am really sad. Actually, he was killed the day after he was arrested or the same day.”

The Burmese military frequently attempts to cover up their crimes. In this case, they had dressed the body of Maung in a military uniform in a clumsy attempt to disguise him as a combatant. However, the soldiers did not remove Maung’s own clothes before dressing him in a military uniform. He was still wearing his traditional Karenni shirt underneath the uniform, which helped to identify him.

Unfortunately, his body was difficult to remove. His family was forced to dig a grave and bury him where he was found.

16. ND-Burma, “Human Rights Documentation Manual Series: Documenting Killings and Disappearances in Burma” (October 2008).

## Mass Killings

The killing of one or more civilians may amount to the war crime or crime against humanity of murder, depending on the context in which it was committed. The contextual elements of these crimes are described in the international legal framework and analysis section of this report.

In addition to the murder of dozens of civilians while in military custody in separate incidents, we have also documented three mass killing events.



The first of these was the 2021 Christmas Eve massacre. On the morning of 24 December 2021, a group of Karenni villagers were arbitrarily arrested and detained by soldiers from Light Infantry Division (LID) 66 for one hour before they were burned alive in Muso village, Hpruso township. Two local staff from the well-known international humanitarian organization Save the Children were not part of the group that was initially detained. Soldiers stopped their car as they were passing through the area. They arbitrarily detained the two staffers, who are believed to have been tortured before they were killed. A total of 34 civilians were murdered by junta soldiers in this mass killing event.

The families of those murdered in the Christmas Eve massacre are deeply traumatized and struggle to come to terms with their loss. The wife of one of the men who was arrested and killed in Muso village is suffering from psychological trauma. She said:

“

*“I cry every night. I am very depressed. I wish that I had died together with my husband. I never got to see my husband’s face for the last time. It makes me really sad. Every time I go home, I miss my husband. I even miss him when I see the clothes that he used to wear.”*

The wife of another victim described the many challenges she faces as a widow:

“

*“I don’t know how I will survive in the future without my husband. He was the primary contributor to the household. When he was alive, he managed and arranged everything. Without my husband, I don’t know how to discipline my children. I don’t even have the energy to look after them. It is even worse with the socio-economic challenges. My neighbors are doing farming but I do not know this work, I don’t know what to do.”*



The second mass killing event took place on 20 January 2022. Five male IDPs ventured out in Deemaw Soe township in search of food. Due to the high presence of LID 66 soldiers in the area, villagers warned each other to be careful while traveling. Even though they knew the risks, the IDPs had little choice and went out to find food, only to be arbitrarily arrested by the junta soldiers. After their arrest, they disappeared. Their whereabouts were unknown for six months until some of their decomposed bodies were found at the bottom of a well. Based on the Burmese military's pattern of conduct towards detainees, it is reasonable to conclude that the five IDPs were either tortured to death or killed by other methods while in military custody, before their bodies were inhumanely disposed of.



The third mass killing event followed a similar pattern and took place a few days later in Loikaw township, on 25 January 2022. Witnesses saw six Karenni men being arrested by the Burmese military. In their testimony to fieldworkers, one of the witnesses shared that they heard gunshots in the morning and saw soldiers from the Burmese military retreating from the area. Soon afterwards, the bodies of the six Karenni men were discovered in a sewage pit.

The Burmese military commits gross human rights violations amounting to atrocity crimes with total impunity, as evidenced by these three mass killing events in particular. Their conduct – particularly burning the bodies of Karenni civilians and disposing of bodies in degrading places such as sewers and wells in an attempt to destroy evidence of their crimes – indicates knowledge of these crimes. It demonstrates blatant disregard for the victims by debasing them even in death and adds to the suffering of their families by denying them the dignity of a decent burial for their loved ones.

### Forced Labor and the Use of Human Shields

Under international law, forced labor is usually defined as work or service extracted involuntarily under menace of penalty. This means that a person is coerced into working or performing a service under threat of some type of punishment, so that they cannot refuse. Forced or compulsory labor is only permitted under very limited and specific circumstances.<sup>17</sup> Abusive forced labor in internal armed conflicts is prohibited. For more information see the International legal framework and analysis section of this report.

17. ND-Burma, "Human Rights Documentation Manual Series: Documenting Forced Labor in Burma" (November 2008).

Since May 2021, we have documented six separate incidents of the use of forced labor and human shields by the Burmese military in Karenni State, involving a total of an estimated 65 Karenni civilians including women and children. This practice has been well-documented across the country for years, particularly in active conflict zones in ethnic areas, but has increased since the attempted coup.<sup>18</sup>

In Karenni State, civilians are at high risk of being forcibly taken as guides, porters and human shields for the Burmese military whenever troops are on the move. Often this is when junta troop reinforcements have been deployed, as part of the military's efforts to expand its presence in Karenni State and set up new bases. While on the move, the Burmese military attempts to protect themselves from coming under attack from anti-junta resistance forces by using Karenni civilians as human shields. Sometimes, villagers are falsely accused of crimes they did not commit as a pretext for soldiers to arbitrarily arrest them and force them to serve as human shields as a form of punishment.

Typically, villagers – including women – are abducted from their villages and made to guide soldiers as well as carry their supplies. IDPs have also been arbitrarily detained by the military and used in this way. Victims are forced to march alongside or ahead of a military column, serving as human shields on the frontlines of conflict. Sometimes they are roped together. Under constant threat of physical violence, they are deprived of food and water and verbally berated by the Burmese military. The soldiers routinely subjected civilians to various forms of degrading treatment and brutal beatings amounting to torture. Witnesses report that women have been subjected to sexual violence while being used as human shields.

*The term "human shields" describes a method of warfare where the presence of civilians is used in order to shield military objectives from attack. It is prohibited under international humanitarian law.<sup>19</sup>*

The six documented incidents of forced labor and the use of human shields took place in Hpruso, Deemaw Soe, Loikaw and Pekhon townships, indicating widespread use of the practice by the Burmese military in Karenni areas. The first of these emblematic incidents is described in detail below. Three other incidents are summarized in brief.

18. See for example, Karen Human Rights Group, "Undeniable: War crimes, crimes against humanity and 30 years of villagers' testimonies in rural Southeast Burma" (December 2022) and Chin Human Rights Organisation, "Collective Punishment: Implementation of "Four Cuts" in Mindat Township" (March 2022).

19. International Committee of the Red Cross. See <<https://casebook.icrc.org/glossary/human-shields>>.



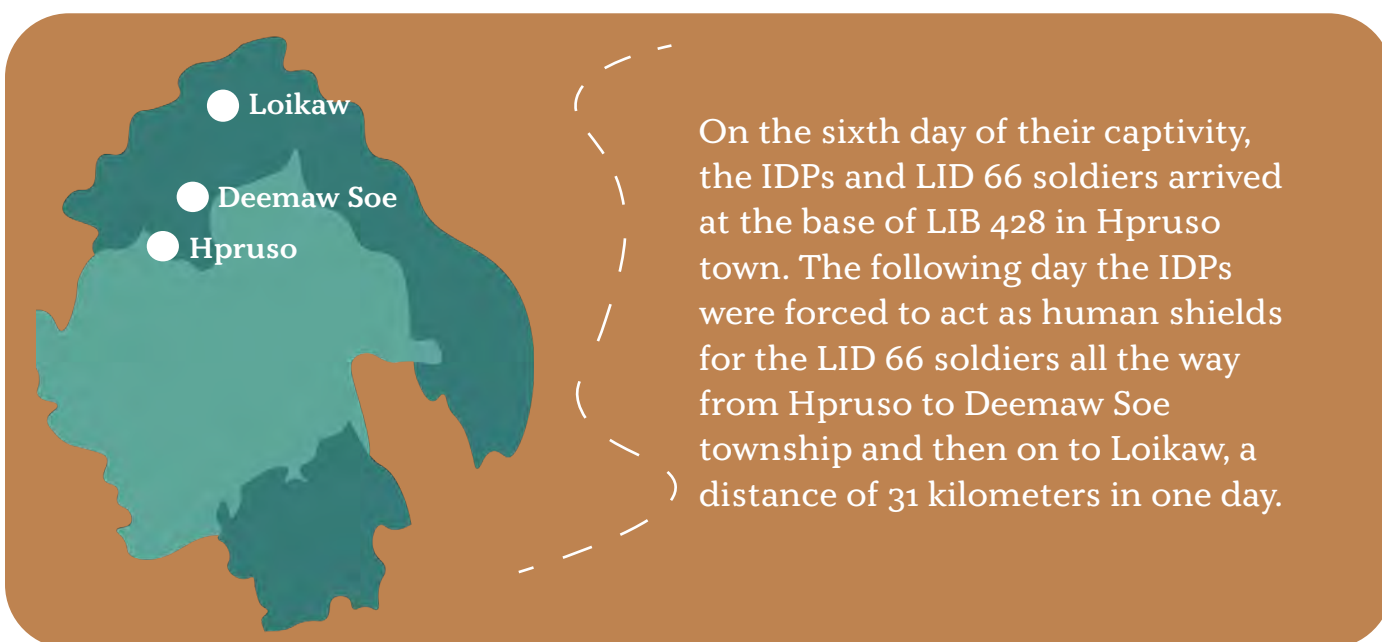
### Incident 1: August 2021, Hpruso, Deemaw Soe and Loikaw townships

Six male IDPs including a teenage boy were making their way back to their village in Hpruso township to pick up food rations and collect some of their belongings when they were abducted by soldiers from LID 66. Over a period of 7 days and 8 nights they were used as forced labor and human shields by the soldiers. During that time, they covered a distance of at least 65 kilometers on foot between Hpruso, Deemaw Soe, and Loikaw townships.

After they were abducted, the soldiers tied the six IDPs' hands behind their backs and roped them together. They were threatened that if they made a move or tried to escape, they would be shot dead on the spot. They were forced to guide the soldiers and carry their military supplies as they walked from village to village in Hpruso township. They were routinely beaten as they walked.

The soldiers set up temporary outposts in two villages in Hpruso township and used the IDPs as human shields to protect them from attack from anti-junta armed groups. The soldiers traveled through at least eight different villages in the area over a period of five days, forcing the IDPs to serve as human shields and porters for them the whole time. At each location, the soldiers also arbitrarily detained several villagers and forced them to guide them to the next village, where they were released. In total, an additional 10 civilians as well as the six IDPs were used as forced labor and human shields on this stage of the journey.

On the sixth day of their captivity, the IDPs and LID 66 soldiers arrived at the base of LIB 428 in Hpruso town. The following day the IDPs were forced to act as human shields for the LID 66 soldiers all the way from Hpruso to Deemaw Soe township and then on to Loikaw, a distance of 31 kilometers in one day.



The group of six IDPs were then transferred to a military detention center in Hpruso town. During their time in military custody, all six were brutally beaten and suffered head injuries and bruises on their hands from being tied up for so long. Two young men in the group aged around 20 were reported to have been singled out for particularly harsh treatment. They were tortured and repeatedly punched in the face until their faces were swollen. While four of the IDPs were eventually released after 21 days, the two young men in the group were transferred to prison. Those who were released have been left deeply traumatized by their experiences, afraid to venture outside in case they encounter Burmese military soldiers and are forced to endure the same brutal treatment again.

### Incident 2: August 2021, Pekhonn township (southern Shan State)

At the same time as incident 1 was taking place, around 300 soldiers under Light Infantry Division 55 based in northern Shan State traveled south to Pekhonn township, arriving on 18 August 2021. Upon arrival they arbitrarily detained five Karenni villagers from Village A and another five from nearby Village B. The 10 Karenni civilians were divided into two groups and forced to be human shields as they traveled 15 kilometers on foot to Village C. They were released the following evening on August 19.

### Incident 3: August 2021, Loikaw township

On 27 August 2021, soldiers from Light Infantry Division 66 arbitrarily detained 13 civilians from five different villages in Loikaw township - seven individuals from Village A, one woman from Village B, two men on the way to Village C, another two men from Village D, and one man from Village E. The soldiers detained the civilians with the intention of using them as human shields.

Over the next two days, LID 66 began to expand its presence and military operations from southeast Loikaw to Loi Lin Lay township, an area where the Karenni Army and Karenni Nationalities Defense Force are active and armed clashes between the junta and the resistance forces take place regularly. During their offensive, junta forces shelled Village A and destroyed ten homes. Throughout this two-day period the detainees were forced to serve as human shields to protect the soldiers from attacks by the anti-junta resistance forces.

The fate of most of the 13 detainees is unclear. Three were reportedly released, two of them elderly men who never returned to their village. The remaining ten are believed to be in the custody of soldiers from LIB 350. They are held in incommunicado detention and there are serious concerns for their welfare.





**Photo (left)** After junta forces attacked Bawlake, pieces of shelling were dug up by field staff throughout the area.

**Photo (right)** A home destroyed by mortar shelling in eastern Deemaw Soe.

#### Incident 4: October 2021, Pekhon township (southern Shan State)

On 28 October 2021, heavy clashes near Village D in Pekhon township forced Karenni villagers to flee to Village E in search of shelter. They were unaware that soldiers from LIB 336 were already setting up a base in Village E. Upon arrival, an estimated 19 men were arrested by soldiers from LIB 336. Witnesses described a group of young and old Karenni men being detained and blindfolded by the soldiers before being taken away. The men were subjected to forced labor and used as human shields for one week. They were then sent to Taunggyi No. 1 military base where they endured severe torture. One of the men, “U Aung Kyaw,” died after succumbing to injuries sustained under torture. The remaining 18 detainees were held on the base for three months before being transferred to Taung Lay Lone prison. It is unclear what charges (if any) they face.

Although some of the estimated 65 Karenni civilians were released after they were used as human shields, at least 24 are still in military custody and may have been handed down jail sentences by the junta. In addition to the man who was tortured to death in the incident described above, at least four other villagers are reported to have died after being arbitrarily detained to be used as human shields. Two died at a military detention center located in Pekhon township, and the other two were killed in Loikaw township.

Children have also been used as human shields, described below.

#### Burmese Military Occupation of Schools

International humanitarian law prohibits direct attacks on civilian objects, like schools. A school may become a legitimate military target if it is used to store weapons, for example. However, before a party to a conflict can respond by attacking the suspected military target, it has to give a warning with a time limit, and the other party has to have ignored that warning. International norms are developing in this area. 116 States have endorsed the Safe Schools Declaration to end the military use of schools and to protect education amid armed conflict.<sup>20</sup> The use of human shields is strictly prohibited in all circumstances.

In areas under the control of the junta in Karenni State, witnesses have reported seeing Burmese military equipment being transported in and out of school compounds. Such use of schools for military purposes puts them at risk of attack from anti-junta armed resistance groups. Junta forces are using the school children as human shields to protect themselves from attack.

Armed Burmese military soldiers guard the schools where military equipment is stored. For example, Loikaw township has at least two high schools with a heavily guarded military presence where between two and seven soldiers are regularly posted. This military presence is not for the security of the children but rather to protect the military equipment. Other schools in the area are guarded by police, not soldiers.

#### Mortar Shelling and Gunfire

Deliberately attacking civilians is absolutely prohibited under international humanitarian law and constitutes a war crime. For more information see the international legal framework and analysis section of this report.

The Burmese military’s rapid expansion of its presence in Karenni State has significantly escalated the armed conflict. Villages have been turned into battlegrounds, resulting in rising civilian casualties. From the ground, junta forces primarily use 81MM and 120MM mortar shells as well as rockets for assaults in Karenni State.<sup>21</sup> Smaller weapons, such as automatic rifles, have also been utilized by regime forces to attack civilians.

20. See <<https://www.icrc.org/en/document/ihl-rules-of-war-faq-geneva-conventions>> and <<https://ssd.protectingeducation.org/>>

21. For a detailed account of weapons and ammunition used by junta forces, see Special Advisory Council for Myanmar, “Fatal Business: Supplying the Myanmar Military’s Weapon Production” (16 January 2023).

**Indiscriminate attacks - attacks which strike military objectives and civilians or civilian objects without distinction - are prohibited under international humanitarian law.**

We have documented that at least 85 civilians were killed by mortar shelling in Karenni State between 21 May 2021 and 31 August 2022, including women and children. More than 240 people were injured in the crossfire.

Heavy weaponry, including mortar shells and rockets, is being intentionally fired on residential areas in Karenni State. In 2022, the junta used heavy weaponry to target civilian areas on over 100 separate occasions in Karenni State.

Due to the military's shelling, thousands of people in Karenni State have lost their homes and are afraid to stay in their villages. Many have also lost their livelihoods, either because they have been forced to flee or because they have had to put their regular socioeconomic activities such as subsistence farming on hold due to fears for their safety. In addition, these attacks have been psychologically damaging. Civilians have growing concerns about their futures and how they will survive, given the constant threat of both indiscriminate and targeted attacks.

*"Using heavy weaponry to destroy homes affects houses and buildings and puts people's lives at risk. The sound of an explosion can traumatize people mentally and affect them physically. Health access has been undermined, and so has their life security,"* said a local humanitarian worker on 27 July 2022.

Unlike the armed opposition groups, the junta forces target areas where civilians live or have sought refuge from ongoing hostilities. Typically, these attacks happen at night or very early in the morning during periods when villagers are not likely to anticipate an assault. Under the cover of darkness, survivors struggle to flee to safety.

On 24 May 2021 in Loikaw township, between 8 PM and midnight, LIB 261 relentlessly fired mortar shells into a church from their base approximately three miles away. Four civilians were killed, including women and children. Approximately 100 civilians had stayed overnight in the church, seeking refuge from the fighting.

Attacks on this scale and of this brutality level had never occurred in Karenni State before the attempted coup. One of the survivors, a woman who was injured in the attack, told fieldworkers:

*"I told my children to go to a safe area. I couldn't move my legs and thought my life was over because I could not escape. I thought I would die with the rest of the dead people."*

Following clashes between the Burmese military and anti-junta resistance groups, the Burmese military will sometimes continue indiscriminately firing their weapons at civilians even after fighting ends. On 5 November 2021, a woman was injured on her lower body by shelling. She recalled:

*"I went to my rice field, and on my way home, artillery weapons were being fired. Before I could reach my home, artillery shells began falling behind me. The second one fell next to me and exploded. The sound of the explosion was really loud and my ears were in pain. I saw a lot of blood and then realized that I was injured. I saw people nearby and I called for help."*

Villagers living in Deemaw Soe, Hpruso, and Loikaw townships have been hit particularly hard by mortar shelling and gunfire, forcing thousands of people to flee. Even when they flee, they are not safe. At the end of July 2022, LIB 102 based in Ngwe Thon, Deemaw Soe township fired mortar shells at an area where IDPs were sheltering. A young girl was killed and three others were injured. One who initially survived later died from their injuries while receiving treatment at hospital.

Villagers who spoke to fieldworkers stated that it was difficult to describe the levels of devastation they are experiencing. An internally displaced woman from Hpruso township said on 7 July 2022:

*"We don't know if they are going to rebuild our homes. Many people are traumatized and scared when they hear the sounds of ammunition. Some even have heart attacks and die. They are afraid to go and do their daily work, or to go to church and other regular activities. The military targets groups and attacks them."*

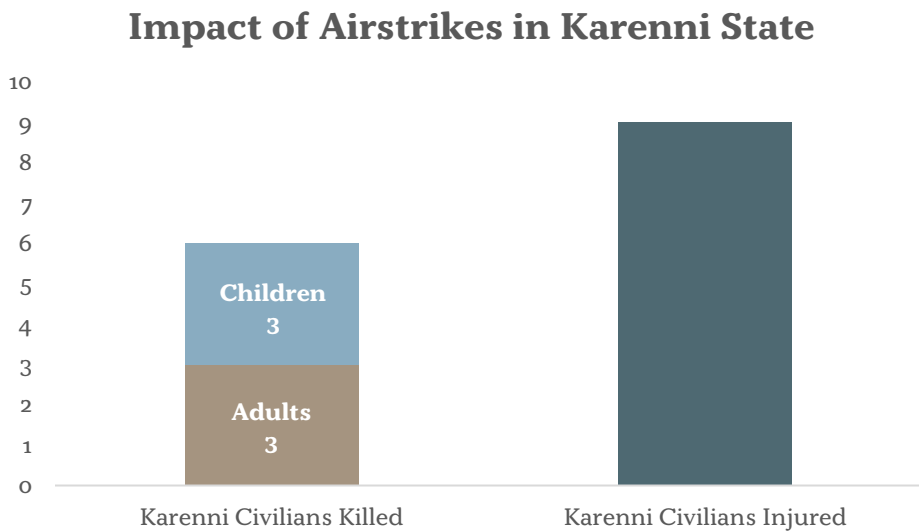
Another internally displaced woman from Hpruso township whose home was destroyed by the regime's mortar shelling said on 23 June 2022:

*"I lost everything. I don't know where to take my children to stay and hide. I am really afraid and I don't know where we can keep running safely."*



Airstrikes

During the reporting period, our fieldworkers documented airstrikes by the junta on five different villages in Hpruso, Loikaw and Deemaw Soe townships in Karenni State. At least six civilians including three children were killed in these attacks, and nine were injured. Between 17 January and 9 August 2022, the military’s airstrikes also destroyed civilian infrastructure: two buildings in IDP areas, two civilian homes, a clinic and three religious buildings.



On 17 January 2022, the junta launched an airstrike on Reekee Bu village in Hpruso township, an area under the control of the Karenni Army and the Karenni Nationalities Defense Forces. Prior to this attack, there was no active fighting in the immediate area and armed opposition groups were not nearby. Many Karenni civilians had fled to Reekee Bu following armed clashes and the Christmas Eve massacre in Muso the previous month.



**Photo:** One of the structures destroyed during the junta’s airstrike on Reekee Bu village.

A Karenni woman who spoke to our fieldworkers recalled the attack on her IDP camp in Reekee Bu village. The day before, around 6 PM, junta aircraft flew low and surveyed the camp. Then, around 1AM, her camp of approximately 300 IDPs was bombed. She explains:

“When the plane bombed the area, it was dark in the middle of the night. We had to run without light. We did not know where we were going. I ran to the mountains. My knee was injured from shrapnel and my knees still have scars. Because of the bomb, my two daughters were killed. When I talk about them, I feel so depressed and my heart breaks. The explosion also caused pain in my ears. Now every time I airplanes, I feel shocked. I do not know what to do. I also do not have money to receive the treatment that I need.”

Having surveyed the area, those in command knew that the area was populated with IDPs and intentionally launched a deliberate attack on civilians. Those who survived were forced to seek shelter in the nearby forest.

On 24 February 2022, the regime carried out an airstrike on a village in Deemaw Soe township, killing two civilians including a 16-year-old boy. His father was unable to cope with the loss and died of heartbreak one month after his son passed. His mother is struggling with the psychological trauma of losing both her teenage son and husband within the space of one month. Their home was completely destroyed in the attack along with many others. Although heavy fighting had been taking place in nearby areas including Nan Mae Khong town, villagers reported that there were no clashes on the day of the airstrike.

Early in the morning of 9 August 2022, two junta fighter jets deployed an airstrike on a village in Loikaw township. This attack killed one civilian and injured two others, including a healthcare worker. It also destroyed a community-built clinic.

Many Karenni IDPs have endured repeated attacks and have been forced to flee multiple times. There is no end to their suffering, and they are forced to cope with long term trauma and disabilities without adequate support. Family members who survive attacks that claimed the lives of their loved ones suffer from survivor’s guilt on top of their trauma. Changes in their behavior, including depression, indicate their struggle to process their grief. A lack of access to psychosocial services compounds their suffering.

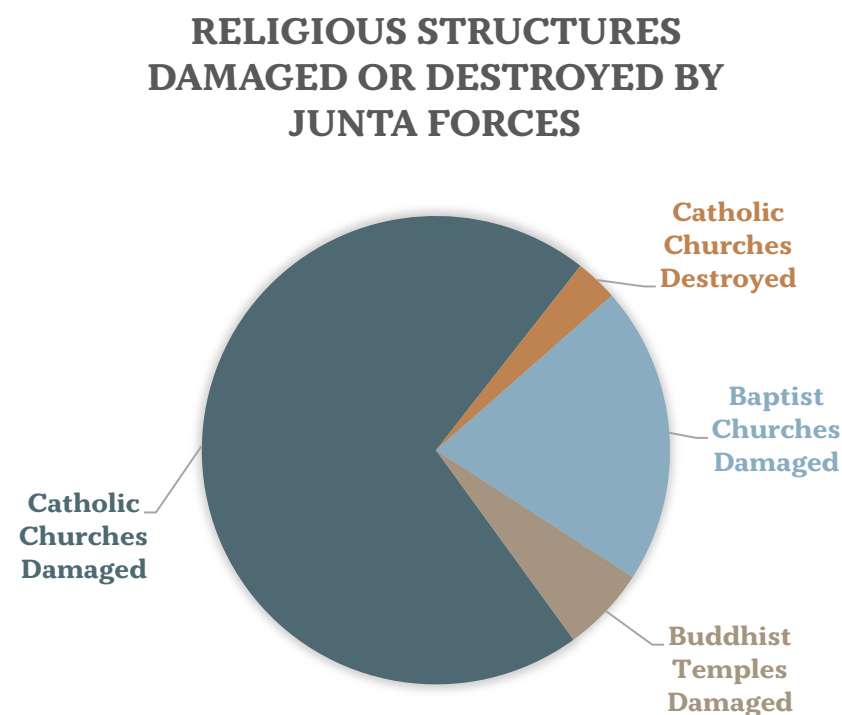
These airstrikes deployed by the military junta deliberately targeted Karenni civilians, including IDPs. Deliberate attacks on civilians constitute war crimes and may also amount to crimes against humanity, described in more detail below in the international legal framework and analysis section of this report.



## Attacks on Religious Buildings and Clinics

International humanitarian law protects cultural property. Attacking protected objects constitutes a war crime under the Rome Statute.<sup>22</sup> ‘Protected objects’ include hospitals, clinics, buildings dedicated to religion or education, and historic monuments, provided they are not military objectives (i.e. used for military purposes such as storing weapons).

Since the attempted coup, junta forces have attacked and damaged 24 Catholic churches, destroying one completely in a village in Hpruso township. Seven Baptist churches and two Buddhist temples have also been damaged by heavy artillery fire, including mortar shells.



Civilians fleeing armed clashes often seek refuge in places of worship. As described above, LIB 261 continuously shelled a church where 100 civilians were seeking shelter in May 2021, killing four.

On 15 June 2022, one Catholic church and another two religious buildings in Hpruso township were destroyed in an arson attack by soldiers from LID 66. The attack happened when the soldiers were leaving the township to head to Loikaw. However, they were blocked by Karenni armed resistance groups near a village where the soldiers stayed for more than three nights. Before the soldiers continued onwards towards Loikaw, they targeted Karenni religious infrastructure in a reprisal attack.

22. Article 8 (2)(e)(iv) of the Rome Statute and ICC Elements of Crimes, (2011) Article 8 (2)(e)(iv).



**Photo:** A church in Hpruso township burned down by Burmese troops.

Junta forces have also attacked and destroyed four clinics in Karenni State. This has a direct impact on access to healthcare, particularly in rural areas where clinics provide vital services. Such attacks place additional burdens on civilians, forcing them to travel through active conflict zones to access healthcare.

## Use of Landmines

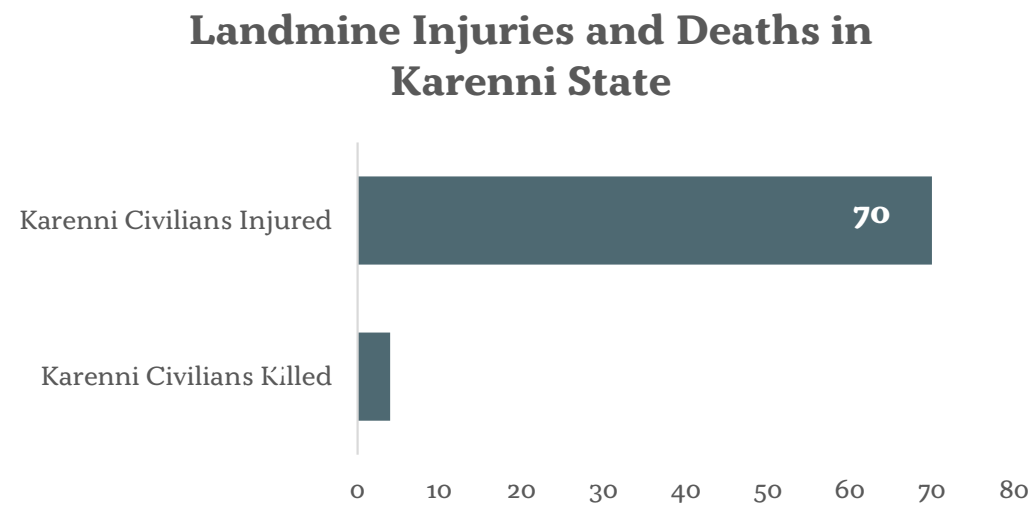
Customary international humanitarian law prohibits the use of weapons that are by nature indiscriminate.<sup>23</sup> Landmines are victim-activated weapons that cannot distinguish between civilians and combatants.

We documented 22 landmine explosions that killed four civilians and seriously injured 70, including children. When the Burmese military attempts to secure more territory by establishing new bases and expanding their operations, they intentionally place landmines around local villages. Civilians fleeing attacks by junta

23. ICRC, Customary International Humanitarian Law Rule 71. The use of weapons which are by nature indiscriminate is prohibited.



forces are at high risk of death or injury from landmines and other unexploded ordnances. IDPs are also at risk of detonating landmines if they try to return to their homes to retrieve food and other basic necessities for their survival.



The junta manufactures and deploys specific landmines, known as the M14 and M16.<sup>24</sup> The M14 is designed to severely disable victims, while the M16 immediately kills anyone who detonates it. The various PDFs and Karenni Army do not have access to these landmines. Parts of Pekhon township in southern Shan State, as well as Shadaw, Baw Lake, Loikaw, Deemaw Soe and Hpruso townships in Karenni State have been heavily mined by junta forces. Witnesses reported seeing soldiers from LIB 102 and LID 66 laying landmines around their villages in Deemaw Soe and Hpruso townships.

All of the landmine incidents documented in this report detonated in civilian areas, including roads in regular use and other public areas such as farms, local markets, clinics, and even schools.

In August 2022, a landmine exploded at a local high school in Mailo ward in Loikaw town when community members were trying to make the school compound secure. One person was killed, and another seriously injured in the explosion.

The ongoing threat posed by landmines has made it difficult for villagers to farm. As they cannot secure alternative livelihoods, they are forced to make high-risk decisions to tend their crops. In June 2022, a woman from a village in Deemaw Soe township was killed when she stepped on a landmine. In August 2022, a woman from a different village in Deemaw Soe township was harvesting rice when she stepped on a landmine and lost a leg. Her remaining leg was also seriously injured.

Many of those seriously injured in landmine explosions are children and young people. Some have had to have limbs amputated after sustaining serious injuries

caused by landmine explosions. The impacts on victims and their families are long-lasting as they continue to suffer from deep psychological trauma and physical pain. In March 2022, “Maung Lay”, aged 15 and the eldest of seven siblings, stepped on a landmine while tending to livestock in his family’s field in Pekhon township, southern Shan State. The junta planted the M14 and M16 mines that almost claimed the life of Maung Lay. He survived after arriving at the hospital in time, but he had to have his right leg amputated below the knee and his right eye removed due to shrapnel damage from the explosion. The toll on families of victims of landmine explosions is emotionally devastating and can also be economically debilitating. In an interview with Maung Lay’s mother, she said:

“*My sons went to the field to tend the cows early in the morning. When Maung Lay first stepped on the landmine, others planting rice in the field went to help and took him to the hospital. His younger brother went back to the village to get more assistance. Maung Lay lost consciousness when it detonated. In the beginning, the wound was so painful that he could not sleep but now it is improving. We still need to return to the hospital and face very high financial expenses.*”

The family is now struggling financially. Maung Lay’s mother is facing a lot of stress and said she felt depressed. Her son is now disabled and awaiting a prosthetic leg from Tachilek, a town in eastern Burma.

“*There are no health services or social services we can access for help,*” Maung Lay’s mother added.

There are many geographic and financial barriers for Karenni people seeking life-saving treatment from landmine-related injuries. Nearby clinics are usually not equipped with the necessary medical equipment or medicine to treat landmine victims. When civilians are injured in a landmine explosion, the nearest available treatment could be hours away. They usually need to navigate military checkpoints along the way that could further delay treatment.

In June 2022, close to the Kone Tha – Lin Pon Lay road in Loikaw township, a young girl stepped on a landmine while in a field. She was traveling by motorcycle with her mother from Loikaw to Pekhon township when they stopped for a comfort break. After the landmine exploded, the mother sought help from a man driving by on his motorcycle. They rushed her daughter to the hospital in Loikaw.

24. Amnesty International, [“Myanmar: Military’s use of banned landmines in Kayah State amounts to war crimes”](#) (20 July 2022).

*“All I can do is stay next to my daughter and comfort her. I have to encourage her because I don’t want her to feel down or upset. We cannot stay in Loikaw for a long time because we are afraid. When my daughter’s leg improves, we think of living somewhere safer. We cannot live here long term because it is difficult to live and to eat. It is not easy for us to earn an income. We rely on a little support from the church and religious groups. Aside from that, there is no support for us,” said the young victim’s mother.*

The girl and the mother have remained in Loikaw to be closer to health facilities. The father and the rest of the family are displaced and staying at one of the temporary IDP sites. The family hopes to reunite and move to a safer location where there is no fighting in the area.

The Burmese military’s conduct of planting landmines around villages and other public sites to intentionally harm and displace Karenni civilians appears to be part of a wider strategy of collective punishment. The extensive use of landmines in civilian areas will have human security implications for many years to come in Karenni State, and seriously undermines prospects for the voluntary return of IDPs to their homes in safety and dignity.

A displaced Karenni woman explained:

*“In our village, we are not safe, so we had to flee. No one dares to return to the village because there are landmines and villagers are afraid that they will step on them and be harmed. Until now, the military junta is still living around our homes in the village. There is no security. We were worried the whole time and we could not sleep at night. Sometimes our children wake up with nightmares. We are worried for them. We are afraid to go home and we don’t even know when this would be possible. We feel quite stressed and depressed because our futures have been destroyed.”*

### Destruction of Homes

International humanitarian law prohibits attacks on civilian objects such as villages, towns, and houses, provided they have not become military objectives (i.e. used for military purposes). Deliberate attacks on civilians are absolutely prohibited under international humanitarian law and constitute a war crime. For more information see the international legal framework and analysis section of this report.

According to our records, 1,190 homes in 87 Karenni towns, wards and villages have been either severely damaged or completely destroyed by junta forces. Among these, we estimate that 520 houses have been completely obliterated by the Burmese military’s mortar shelling and arson attacks. The following areas were heavily damaged by the junta forces:

- *Four wards* in two towns (Nan Mae Khong and Deemaw Soe) and *26 villages* in Deemaw Soe township
- *Seven wards* in Loikaw city and *19 villages* in Loikaw township
- *Three wards* in Hpruso town and *11 villages* in the Hpruso township
- *One ward* in Baw Lake town and *three villages* in Baw Lake township
- *Seven wards* in two towns (Moe Bye and Pekhonn) and *four villages* in Pekhonn township (southern Shan State)

### The following townships and villages were heavily damaged or destroyed by the junta:





The level of damage and destruction to civilian property is particularly high in Deemaw Soe and Loikaw townships, but it is a pattern of conduct by the Burmese military in all townships in Karenni State and Pekhon township in southern Shan State where there have been armed clashes.

A displaced woman in Hpruso township told fieldworkers on 23 July 2022, “Large ammunition destroyed my house. There is nothing left. I don’t know where to take my children or take refuge. I am afraid.”

As part of their expanded military presence in Karenni State, Burmese military soldiers have established new bases in Karenni villages by clearing the land, destroying any property and damaging farmland. A woman from Deemaw Soe township whose house was destroyed recalled:

“Our house is close to the military base. When the soldiers cleared their land to expand their operations, they also destroyed people’s houses. Fences were destroyed too. They used a bulldozer to demolish everything. Even if we want to go home, we have no home left. Our family members have been separated and scattered around. There is no place for them, and there is no security.”

When Burmese military soldiers retreat, they frequently destroy villagers’ homes in arson attacks. They typically do this under the false pretext that they are ambushing Karenni armed resistance groups. Throughout the reporting period, we observed that many of the arson attacks on civilian homes and properties took place when there was no active conflict with anti-junta armed groups. Arson attacks are part of the Burmese military’s strategy of collective punishment of Karenni civilians for their perceived support of the anti-junta resistance forces.

In one particular arson attack on 16 May 2021 on a village in Deemaw Soe township, 44 out of 55 houses were torched by soldiers from LID 66.



When the regime carried out the airstrike on a village in Deemaw Soe township on 24 February 2022 which killed two civilians (described above), many houses were damaged or destroyed. One week later, soldiers from LID 66 returned to the village and burned down 80 more homes in an arson attack. A woman from the village told fieldworkers:

“My house and the rice store were all burned down. It is really difficult for us to survive.”

*When soldiers burn down their homes, villagers struggle to recover. With all of their possessions and valuables burned beyond recognition, they cannot be salvaged in the aftermath of the blaze. They lose everything, including their identity cards and household registration documents, which has serious implications on their ability to access any type of social service or travel throughout the country. When an identity card needs to be replaced, it is an extremely complicated, expensive, and timely process which includes obtaining a recommendation letter from the local police station. The village tract leader must also provide written confirmation that the identity card has been destroyed. Without any viable documents proving an individual’s identity, civilians can be arrested at military checkpoints.*

The arson attacks also damage farmland and destroy equipment used to harvest crops. For local villagers, agricultural and rice plantations are their primary livelihood. Now, once-fertile land is no longer usable. This has long-lasting repercussions for the ability of local people to generate enough income from their yields to sustain their families. Coupled with the rising costs of food, oil, and rice, farmers rely heavily on their ability to produce food for themselves and their communities. In the current situation, farmers have been unable to work and are discouraged from harvesting due to fears Burmese military soldiers could shoot them on sight or their crops could be set on fire.

By making villages uninhabitable and destroying livelihoods, there is little prospect of voluntary return in safety and dignity for Karenni IDPs. This ‘scorched earth’ tactic by the Burmese military is deepening the humanitarian crisis that has displaced thousands of Karenni civilians.



**Photo:** A home destroyed in an attack by junta forces.



## Looting

The prohibition of pillaging [a more formal term for looting] is a long-standing rule of customary international law. Pillaging also constitutes a war crime.<sup>25</sup>

After armed clashes, civilian properties are frequently looted by Burmese military soldiers. Karenni civilians are often unable to recover their stolen belongings. In urban areas like Loikaw, civilians witnessed military trucks driving through the wreckage left behind after intense armed clashes. Using detained Karenni as guides, soldiers entered homes, confiscated belongings, and filled military vehicles with stolen goods.

Sometimes, soldiers will enter a Karenni home but may only take a few small possessions as part of a tactic to intimidate Karenni civilians. Local PDF groups are also reported to have taken items from civilians, specifically motorcycles which are a useful form of transport in Karenni State.

## Forced Displacement

Within the context of an internal armed conflict, displacement of the civilian population can only be justified in exceptional circumstances such as to protect civilians from grave danger or for critical military reasons, which must be within the public's interest.<sup>26</sup> Forced displacement may amount to a war crime or crime against humanity. For more information see the international legal framework and analysis section of this report.

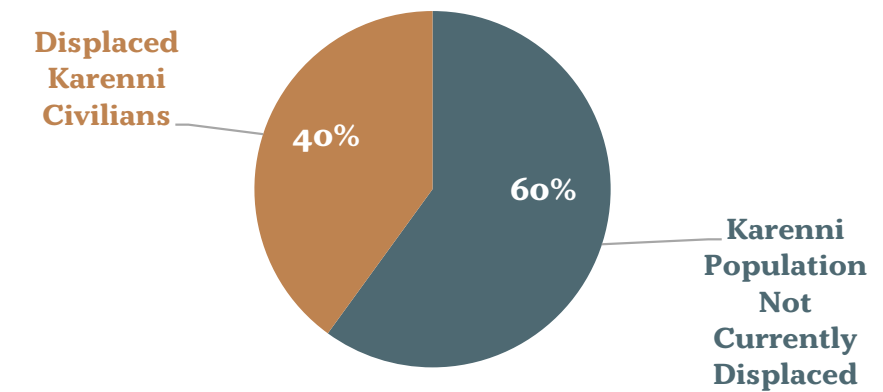
Deliberate attacks on civilians by junta forces and rapid military expansion in villages and towns have forced civilians to flee. The Burmese military's 'scorched earth' tactics as part of collective punishment meted out to the Karenni population have destroyed homes and entire villages, leaving civilians with nowhere to return to.

At least 180,000 Karenni people - more than 40 percent of the estimated total Karenni population- have been forcibly displaced. Most people are internally displaced within the boundaries of Karenni State and southern Shan State, although some have crossed the border into neighbouring Thailand to seek refuge. 85 percent of the population of Loikaw, the capital of Karenni State, have fled the city.

25. ICRC, Customary International Humanitarian Law Rule 52. Pillage is prohibited. ICC Rome Statute, Article 8(2)(e)(v).

26. ND-Burma, "Human Rights Documentation Manual Series: Documenting Forced Relocation in Burma" (October 2008).

## INTERNALLY DISPLACED KARENNI CIVILIANS



Some IDPs have sought temporary shelter in religious buildings such as churches and monasteries, while others have fled to nearby villages. Although many host communities have welcomed IDPs, others are reported to have been hostile. Some IDPs have also fled deep into the forest for added cover from attacks, where they set up makeshift displacement sites.



**Photo:** Displacement camp in Karenni State.

The Karenni IDP population is estimated at 35-40 percent women and 30 percent children, while the rest are men. There are regular reports of food, water, and medicine shortages as well as a lack of sanitation facilities at all the IDP sites.

Already traumatized by the atrocity crimes they have experienced, the IDPs live in constant fear of renewed attacks by junta forces, such as the airstrike on Reekee Bu IDP camp. Many IDPs have been displaced multiple times.



On 28 July 2022, a displaced man in Deemaw Soe township said:

“Our village has become a battleground. We have to run away and hide. Now we are IDPs. We are facing so many difficulties. We cannot live a good life. We don’t have good food or health care. The military came to our village and stole our things. They even burned down our house. Sometimes I want to cry because I feel sad or distressed. I cannot sleep. I have no appetite. I have to take sleeping pills. I think about where I would go if I needed to flee. All of this anxiety has led to high blood pressure. I miss my home and village. Of course, I want to go back and live there. Who wouldn’t want that?”

IDPs also live in fear of experiencing torture and other human rights violations at the hands of Burmese military soldiers. On 3 August 2022, a male IDP committee member in Hpruso township:

“I always worry that if Burmese military soldiers see us, they will torture and interrogate us. They are known to beat people and hit us with sticks. We are afraid to go to the city because we are afraid that we will meet the junta on the way,” said a male IDP committee member in Hpruso township on 3 August 2022.

An NGO worker explained on 27 July 2022:

“Until now, the military’s aircraft are still flying around our area. We do not know when we will be bombed or fired upon. Things that we have been saving and preserving our whole lives have been destroyed in a single bombing. This is so depressing.”

The attacks on IDP sites continue unabated. On 23 October 2022, junta forces shelled an IDP site in Loikaw township, killing one man and injuring two other civilians. On 16 November 2022, a child was killed and eight other civilians were injured when a mortar shell fired by the Burmese military landed on the nursery school where they were taking shelter, also in Loikaw township.

## Obstruction of Humanitarian Aid

The UN Guiding Principles on Internal Displacement set out collective rights on protection from forced displacement as well as guarantees during displacement. The authorities must facilitate the free passage of humanitarian assistance and ensure safe access to medical services and education for displaced persons.<sup>27</sup>

The junta is fueling the crisis across the country by obstructing essential humanitarian assistance. Tight movement restrictions are imposed in specific parts of the country, including the whole of Karenni State.<sup>28</sup> Such travel restrictions

severely limit humanitarian access for international actors, including UN agencies and INGOs. The regime has also imposed restrictions on the supply and purchase of medicines, which undermines access to desperately needed medical care.

The gaps in service provision in Karenni State have largely been filled by workers from civil society organizations - including the Karenni National Women’s Organization and the Kayan Women’s Organization - who risk their lives to ensure humanitarian support is made available to vulnerable communities. As described earlier in this report, the regime routinely targets humanitarian aid workers and volunteers for arrest. Anyone found with supplies of life-saving medicines or more than ten sacks of rice in their vehicle may be subjected to arbitrary arrest, including humanitarian aid workers.

Moreover, a weak telecommunications signal and communication restrictions imposed by the regime means that mobile phone connections are unreliable. This further impedes humanitarian relief efforts and is an added security risk for Karenni workers and volunteers providing vital aid.

27. UN Commission on Human Rights, ‘Guiding Principles on Internal Displacement’ (11 February 1998) UN Doc E/CN.4/1998/53/Add.2. See also ICRC, Customary International Humanitarian Law Rule 55. Access for Humanitarian Relief to Civilians in Need.

28. UNOCHA Myanmar, “Humanitarian Update No. 24” (3 December 2022), p. 4, 7.

The Burmese military confiscates material support at military checkpoints to sabotage relief efforts. In some cases, humanitarian aid has been burned or destroyed. The confiscation of medicines and other essential supplies has likely resulted in the preventable deaths of hundreds of displaced civilians and has contributed to a nutritional crisis of malnourished children.

### Food Insecurity and Access to Livelihoods

IDP sites face supply shortages, including essential food items. Civil society organizations are trying their best to support the displaced populations under very challenging circumstances, with the support of donors at local, national, and international levels. A displaced woman in Hpruso township expressed her fears on 23 July 2022:

“We are really worried that the rations will be cut. The military is targeting aid workers and arresting the people who are helping us. Sometimes they are even killed. If the rations are cut, it will be more difficult. With less available the rations will get smaller, and it is not enough to keep us from starving.”

Many of the civilians forced to flee their homes in Karenni State are subsistence farmers who have had to abandon their rice paddies and other crops. IDPs constantly worry about food insecurity. Another displaced woman in Hpruso township explained:

“Right now, the main thing we need is rice, oil, and salt. Without these items, how can we survive in the future? We rely on these staples to survive. Without rations, people would try to steal the limited amount of food we have. The problem is that the military is destroying our food and the main goods that we need.”

IDPs are relying entirely on outsourced assistance, but it is insufficient. Sometimes women are left with no choice; they need to leave their temporary shelters in search of food for their families, and sometimes walk back to their village to retrieve food and other essentials. This carries the risks of stepping on a landmine, being hit by mortar shelling, or shot at by Burmese military soldiers.

“Because of the large size of the [Burmese military’s] weapons, I am afraid to travel to my rice field. I am worried that I will be shot,” said a displaced woman in Hpruso township on 7 July 2022.

Following the loss of access to their traditional subsistence farming livelihoods, there are no jobs or other types of work available to displaced people. When civilians were first displaced, they took as much as possible with them. But after more than a year, the money, belongings, and valuables they took with them have run out or are no longer usable. IDPs report constantly worrying about how they will survive without any possessions or money. Many of the displaced civilians interviewed for this report expressed feelings of depression, uncertainty, and fear. These sentiments are exacerbated by a lack of access to health and education facilities and no viable economic options which would ease their worries.

A displaced woman whose husband was killed by the Burmese military explained:

“When my children are sick, I cannot buy them snacks, juice, milk, or medicine because of financial limitations and difficulties. Sometimes, I have to buy items with loans that I promise to repay later. We borrowed one million Myanmar Kyat (475 USD) when my husband was still alive. I don’t know when the money lender will come and ask for the money back. I do not know what I will do if this happens. I am worried about that.”

With no access to livelihoods, poverty levels have risen. As a result, we are seeing an increase in looting within more populated areas of Karenni State, as well as drug dealing and substance abuse within IDP areas. People are forced to find other ways to earn money and, unfortunately, some adopt these negative coping mechanisms.

### The Needs of Displaced Women and Children

In the IDP sites, Karenni women and children are struggling to have their basic needs met, and their rights are not protected or respected. They are also at increasing risk of domestic and gender-based violence. On 24 July 2022, a displaced woman from Deemaw Soe township explained:

“We have to stay in a bamboo house. Women are facing exploitation and sexual abuse, and domestic violence. There are many challenges and difficulties. If something is not going well in the family, it is usually women and children who suffer the most.”



An 28 July 2022, another displaced woman from Deemaw Soe township described some of the challenges facing women:

“Children, women, and elderly people are always getting sick. Women who have babies and need to vaccinate their children face difficulties in doing so. There are so many dangerous things that could happen to a woman on her way to the clinic. This trip can take several days. Or we have to go to Loikaw to get medicine for the elderly who also have medical needs. These journeys are all challenging. If we ask men to go for us, we worry they will be targeted and arrested by the military. Women will go by themselves, but it is very risky for us to do that.”

Amid the uncertainties and mounting instability, some heads of households (typically the men) have adopted negative coping mechanisms, such as drug and alcohol abuse. This can lead to an increase in domestic violence, which puts women’s safety at risk.

“Life has been challenging for women exposed to many forms of violence. There are rising cases of women’s rights being violated. The use of drugs has increased and when family members acquire drugs, it makes them act violently. Sometimes, men use physical violence to show force over their families. They also sexually violate the rights of their partners. In temporary shelters, there is no security or privacy for women. There are also no pathways for legal assistance for women and children,” said a spokesperson from a local women’s organization on 23 July 2022.

Women living in the IDP camps lack privacy. A lack of adequate supplies, including sanitary packs and women’s hygiene items, threatens to strip women of their dignity in the confined quarters. On 28 July 2022, an IDP woman in Deemaw Soe said:

“I don’t feel safe staying here. There is the threat of violence, and no privacy when we are bathing,”

Women’s needs are not properly considered or effectively supported in IDP areas or temporary shelters. Formal pathways to protection and justice mechanisms for women are weak and unreliable in the current conflict settings. There is no strategy for the prevention of gender-based violence. Even though women comprise the majority of occupants across the displacement sites, men dominate the IDP committees responsible for managing the camps. Women’s participation is extremely limited and their needs are overlooked.

As their security and economic situation continues to deteriorate, IDPs – particularly women – are at risk of human trafficking and sexual exploitation. Human traffickers

will take advantage of vulnerable Karenni women who are desperately looking for opportunities to escape. The situation has had deeply consequential impacts on the mental and physical well-being of women, several of whom expressed that they feel depressed and no longer want to live.

### Access to Healthcare

“Healthcare is something that is always needed. But the health services available are weak. We do not have enough medicine or doctors. We cannot get the medicine we need in the IDP camp. There are diseases people catch which worsen because of the lack of health services,” reported a displaced woman in Hpruso township on 23 July 2022.

IDPs are feeling the brunt of the current restrictions on medicines and medical supplies. Moreover, there are very few (in some cases no) medical professionals working in the camps. IDPs must wait for a doctor to arrive, which could take months. Or they must leave the camp to visit a clinic, which means they have to navigate military checkpoints and the associated dangers along the way. As described earlier in this report, junta forces have attacked clinics.



**Photo:** Women receiving healthcare at one of the displacement camps.

After the attempted coup, many medical doctors joined the Civil Disobedience Movement and were targeted for arrest by the junta. With many medical professionals now in military custody or in hiding, many health clinics have been



forced to shut down, further limiting medical services. Junta-run clinics and medical facilities in towns and cities do not have enough medicine or equipment to treat people.

On 3 August 2022, a female member of an IDP committee in Hpruso township recounted:

“At the IDP camp in Hpruso township, a woman died during childbirth. The baby survived. Women’s health is the most important aspect to focus on, but the health systems are unreliable in the IDP camps. It is difficult to go to the hospital when something happens because it is far. There are also shortages in medicine and medical assistants. This puts women’s lives in danger.”

Healthcare for IDPs is chronically underfunded, despite the desperate need for life-saving medicine and medical services. A humanitarian worker explains:

“In the IDP camps, not many people provide health services because there are not enough tools, materials, or equipment to do this work. There is no clinic or hospital. Very few donors want to fund health services. They prefer to provide food and relief. But medical needs are still essential to us. It is risky for people transporting medicine because the junta will stop them, arrest them and confiscate materials.”

## Access to Education

Karenni children’s education has been significantly disrupted by armed hostilities. Due to mortar shelling and airstrikes, children are afraid to go to school. In some cases, Burmese military soldiers have occupied schools, described earlier in this report.

For displaced Karenni children, access to education is extremely limited. Displaced communities are left to set up schools with very limited resources. It is very difficult for them to afford to pay a teacher’s salary, and there is a lack of qualified teachers as well as teaching supplies. The junta administration controls the sales of textbooks and restricts their supply to IDP areas as well as areas under the control of opposition groups.

“In the IDP camps, we opened a school, but the parents do not earn an income to buy school materials for their children. This is why some children are not going to school but just playing all the time. I don’t want my children to be illiterate. I am distraught for my children,” said an IDP woman from Hpruso township on 7 July 2022.

Fieldworkers reported serious challenges and concerns over the fact that children and youth are unable to access education safely. IDP sites are under constant threat of attack by junta forces, and IDPs are often forced to move in search of safety. This has long-term consequences and negative impacts on their overall well-being.

A humanitarian worker said on 27 June 2022:

“When I think about the children’s education, I have a heavy heart. At this moment, there is no organization that provides a good education for children. The children are suffering from these lost opportunities to study. Within their lifetime, they could become illiterate because they did not have safe pathways to get an education.”

The next section of this report sets out the international legal framework for analyzing the violations documented in the report, to explain how these violations constitute war crimes and/or crimes against humanity.



**Photo:** Children learning in a makeshift classroom at a displacement camp.



The legal analysis in this report is based on treaty-based and customary sources of international human rights law, international humanitarian law and international criminal law. It draws on the Rome Statute of the International Criminal Court (ICC or the Court) in particular, as well as legal precedents set by the case law of *ad hoc* international criminal tribunals and the ICC itself.

## Jurisdiction of the International Criminal Court

The ICC has jurisdiction (the authority of a court to hear and determine cases) where genocide, crimes against humanity or war crimes were committed after the adoption of its Statute on 1 July 2002, and when the following conditions are met. Firstly, that the alleged crimes were committed by the national of a State Party, in the territory of a State Party, or in a State that has accepted the jurisdiction of the Court. Alternatively, the Court has jurisdiction when the alleged crimes were referred to the ICC Prosecutor by the United Nations Security Council (UNSC) via a UNSC resolution.<sup>29</sup> Burma is not a State Party to the Statute of the ICC, although the National Unity Government lodged a Declaration with the ICC accepting its jurisdiction in July 2021.<sup>30</sup> The ICC has acknowledged receipt of the Declaration but has not formally responded to it.<sup>31</sup> The ICC's formal acceptance of the Declaration or a UNSC resolution referring the situation in Burma to the International Criminal Court are two principal avenues of recourse to international justice and accountability for atrocity crimes committed by the military in Burma.<sup>32</sup>

## International Humanitarian Law

The violations documented in this report have taken place in the context of an internal armed conflict between the Burmese military and Karenni armed resistance groups. As such, international humanitarian law – known as the laws of war – is

29. See ICC 'How the Court works' available at <<https://www.icc-cpi.int/about/how-the-court-works#:~:text=may%20be%20released.-,Jurisdiction,jurisdiction%20of%20the%20Court%3B%20or>> accessed 12 November 2022.

30. See NUG Announcement No. (5/2022) available at <<https://gov.nugmyanmar.org/2022/03/22/announcement-no-5-2022-statement-on-the-determination-by-the-united-states-government-of-genocide-and-crimes-against-humanity-against-the-rohingya/>> accessed 12 December 2022.

31. A recent legal opinion by Ralph Wilde of the University College London argues that the ICC is both entitled and legally required to accept the NUG's Declaration under Article 12(3) of the Rome Statute. The opinion was endorsed by 17 other eminent jurists. See Legal Opinion available at <<https://the-world-is-watching.org/wp-content/uploads/2022/08/Wilde-Burma-ICC-opinion-15-Aug.pdf>> accessed 12 December 2022.

32. A third avenue would be establishing an *ad hoc* international criminal tribunal through the UN General Assembly or the UN Human Rights Council. See Special Advisory Council for Myanmar, "Briefing Paper: Myanmar and the International Criminal Court" (15 December 2022). A fourth avenue is under the principle of universal jurisdiction, which holds that some crimes – such as genocide, crimes against humanity and war crimes – are so horrific that they can be tried anywhere. The principle allows national courts in third countries to address international crimes occurring elsewhere, provided that the third country has adopted legislation recognizing the relevant crimes and authorizing their prosecution.

applicable to the situation.<sup>33</sup> One of the main purposes of international humanitarian law is to protect non-combatants, people who are not taking part in hostilities – specifically, civilians, health workers and aid workers. All parties to the conflict must allow and facilitate rapid, unhindered passage of humanitarian aid for civilians in need. Blocking access to humanitarian aid is a serious violation of international humanitarian law.<sup>34</sup> International humanitarian law encompasses several fundamental principles, the first of which is protection of non-combatants. Second is the principle of distinction, relating to targeting. It requires parties to a conflict to always distinguish between civilians and combatants. Attacks against civilians and civilian objects are prohibited.<sup>35</sup> Indiscriminate attacks (attacks which strike military objectives and civilians or civilian objects without distinction) are also prohibited.<sup>36</sup>

## War Crimes

War crimes are serious violations of international humanitarian law. Specific acts which are prohibited in the context of an internal armed conflict are described in Articles 8(2)(c) and 8(2)(e) of the Rome Statute of the International Criminal Court.<sup>37</sup> Such acts include (but are not limited to) murder, torture, cruel treatment, extrajudicial executions, sexual violence, rape, attacking civilians, and attacking protected objects. When perpetrated in the context of an internal armed conflict and with the necessary intent and knowledge of both the act and context, these acts amount to war crimes.<sup>38</sup>

33. Common Article 3 of the 1949 Geneva Conventions sets out the rules applicable to non-international armed conflicts. See International Committee of the Red Cross, 'The Geneva Conventions of 1949 and their Additional Protocols' available at <<https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>> accessed 12 December 2022. Although Common Article 3 article does not provide a detailed definition of 'non-international armed conflicts', commentary by the International Committee of the Red Cross (ICRC) sets out two requirements for a situation to be classified as such. Firstly, the hostilities must reach a minimum level of intensity. For example, in a situation where a State is obliged to use military force against a non-state armed group rather than its police force. Secondly, non-state armed groups involved in the conflict must be considered as "parties to the conflict", meaning that they possess organized armed forces. For example, these forces have to be under a certain command structure and have the capacity to sustain military operations. See <<https://casebook.icrc.org/glossary/non-international-armed-conflict>> accessed 17 November 2022. See also Prosecutor v. Dusko Tadić, ICTY, Case No. IT-94-1-AR72, Decision (Appeals Chamber), October 2, 1995 [70] and more recently, Prosecutor v. Lubanga, ICC T. Ch. I, Judgment, ICC-01/04-01/06, 14 March 2012 [533-538] and Prosecutor v. Katanga, ICC Tr. Ch. II, Judgement, ICC-01/04-01/07-3436, 7 March 2014 [1183-1187].

34. ICRC, Customary International Humanitarian Law Rule 55. Access for Humanitarian Relief to Civilians in Need.

35. ICRC, Customary International Humanitarian Law Rule 1. The Principle of Distinction between Civilians and Combatants. Rules 7. The Principle of Distinction between Civilian Objects and Military Objectives 8. Definition of Military Objectives and 9. Definition of Civilian Objects. See <[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul)> accessed 17 November 2022.

36. ICRC, Customary International Humanitarian Law Rules 11. Indiscriminate Attacks and 12. Definition of Indiscriminate Attacks and 14. Proportionality in Attack, op. cit.

37. Articles 8 (2) (c) (i-iv) and 8 (2) (e) (i-xv). Rome Statute of the International Criminal Court (Rome Statute), adopted July 17, 1998, 2187 UNTS 90, U.N. Doc. A/CONF.183/9 (2002).

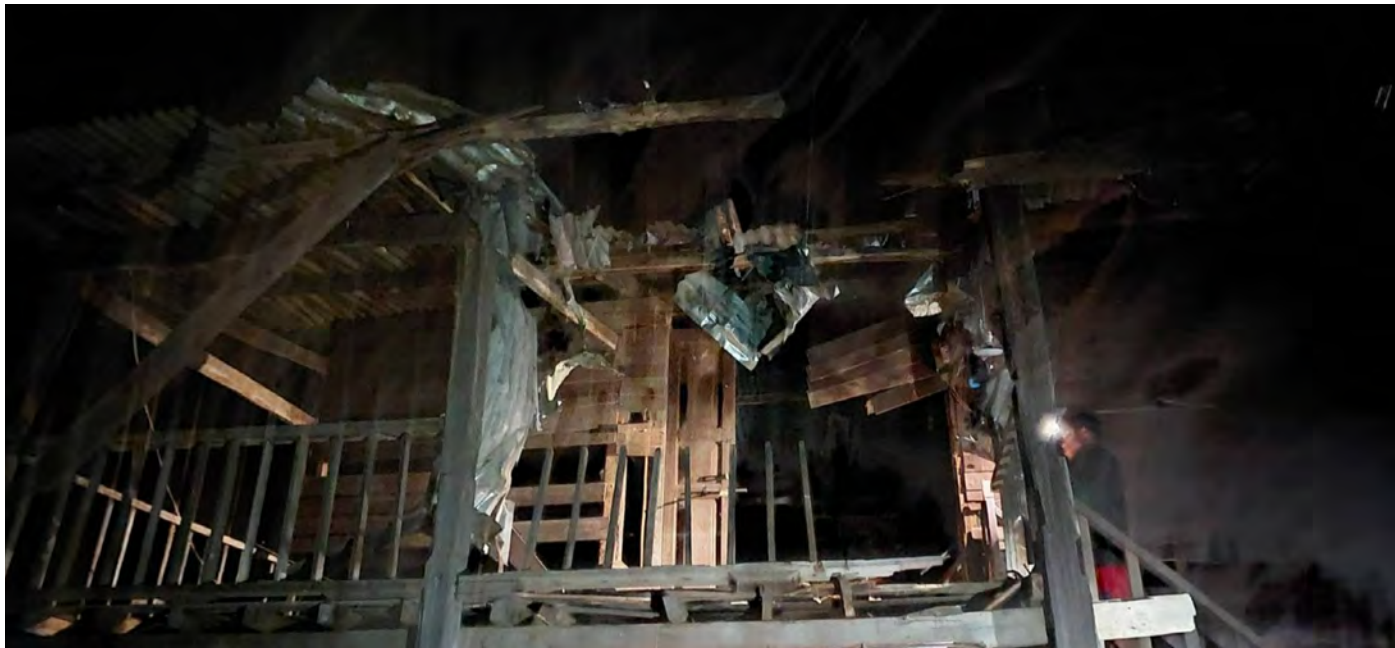
38. ICC Rome Statute, Article 30. See also International Criminal Court, Elements of Crimes, (2011) Articles 8(2) (c) and 8(2)(e).



## Crimes Against Humanity

Crimes against humanity are among the gravest crimes under international law, committed as part of a widespread or systematic attack against any civilian population. An ‘attack’ doesn’t need to be a military attack, but instead refers to a course of conduct involving the commission of prohibited acts.<sup>39</sup> The attack must be either widespread or systematic in order to meet the legal threshold for a crime against humanity. The perpetrator must have knowledge that the conduct is part of a widespread or systematic attack against a civilian population.

The Court’s Pre-Trial Chambers decisions in the *Bemba* and *Katanga* and *Ngudjolo* cases clarified that a widespread attack entailed “an attack carried out over a large geographical area or an attack in a small geographical area directed against a large number of civilians.”<sup>40</sup> As for ‘systematic,’ the Court has stated that this element refers to “the organized nature of the acts of violence and the improbability of their random occurrence.”<sup>41</sup> These contextual elements determine whether a set of prohibited acts amount to the level of crimes against humanity. Such prohibited acts include (but are not limited to) murder, enslavement, rape, sexual violence, imprisonment or other severe deprivation of physical liberty, torture, inhumane acts, persecution and deportation or forcible transfer of population.



**Photo:** A home was destroyed by mortar shelling in eastern Deemaw Soe.

39. ICC Elements of Crimes, Article 7 Introduction.

40. Prosecutor v. Bemba, ICC PT. Ch. II, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009 [83] and Prosecutor v. Katanga and Ngudjolo, ICC PT. Ch. I, ICC-01/04-01/07-717, Decision on the Confirmation of Charges, 30 September 2008 [395].

41. Prosecutor v. Katanga and Ngudjolo, ICC PT. Ch. I, ICC-01/04-01/07-717, Decision on the Confirmation of Charges, 30 September 2008, [394] Prosecutor v. Gbagbo, ICC PT. Ch. I, Decision on the Confirmation of Charges against Laurent Gbagbo, ICC-02/11-01/11-656-Red, 12 June 2014, [223].



**Photo:** Burmese troops disposed of the bodies of six Karenni men in a sewage pit in Loikaw township.



The following section of this report summarizes the human rights violations documented in the report and analyses how these violations constitute war crimes and/or crimes against humanity.

This report documents multiple deliberate attacks on civilians perpetrated by the Burmese military. In many instances, no active fighting or armed group presence was reported in the area at the time, indicating an intent to deliberately attack civilians. Such attacks directed against civilian populations have included airstrikes, mortar shelling and arson attacks on homes, villages, and protected objects such as churches, monasteries, and clinics, and looting, and constitute several types of war crimes.

### War Crime of Attacking Civilians

Deliberate attacks on civilians<sup>42</sup> are absolutely prohibited by international humanitarian law and constitute war crimes under the ICC Rome Statute.<sup>43</sup> Neither the Rome Statute article or the ICC's Elements of Crimes defines 'attack,' but the corresponding article reflects the principle of distinction and is broad in scope.<sup>44</sup> In its Pre-Trial Chamber decision in the *Ntaganda* case, the ICC clarified that: "In characterizing a certain conduct as an 'attack,' what matters is the *consequences* of the act, and particularly whether injury, death, damage or destruction are *intended* or *foreseeable consequences* thereof."<sup>45</sup>

In other words, such an attack does not need to result in *actual* harm to a civilian population. In its judgment in the *Katanga* case, the Court affirmed that the war crime of attacking civilians, "does not require any harmful impact on the civilian population or on the individual civilians targeted by the attack, and **is committed by the mere launching of the attack** [...] [*emphasis added*]."<sup>46</sup> However, there needs to be evidence that the perpetrator intentionally directed the attack against a civilian population.

42. The ICC regards a civilian as anyone who is not a member of the State or non-State armed forces. In case of doubt an individual must be considered a civilian. A civilian population is described as all civilians, as opposed to members of armed forces and any other legitimate combatants. Moreover, the presence among the civilian population of individuals who are combatants does not deprive the entire population of its civilian character. However, the ICC will take into account factors such as the number and the behavior of the fighters present among the population. Klamberg (ed), *Commentary on the Law of the International Criminal Court*, (2017) Torkel Opsahl Academic EPublisher Brussels, 165.

43. Article 8 (2)(e)(i) of the Rome Statute.

44. Klamberg (ed), *Commentary on the Law of the International Criminal Court*, op. cit. 164.

45. Prosecutor v. Ntaganda, ICC PT. Ch. II, ICC-01/04-02/06-309, 9 June 2014 [46].

46. Prosecutor v. Katanga, ICC PT. Ch. I, ICC-01/04-01/07-55, 6 July 2007 [37] and Prosecutor v. Katanga, ICC Tr. Ch. II, Judgement, ICC-01/04-01/07-3436, 7 March 2014 [799].

In its Pre-Trial Chamber decision in the *Mbarushimana* case, the ICC emphasized that reprisal attacks against civilians are prohibited in all circumstances, regardless of the behavior of the other party to the conflict, since "no circumstances would legitimize an attack against civilians."<sup>47</sup> In addition, acts whose primary purpose is to spread terror among the civilian population likely fall within the scope of the war crime of attacking civilians, given that such acts are prohibited under international humanitarian law.<sup>48</sup>

The evidence documented in this report indicates that the Burmese military has committed the war crime of attacking civilians.

### War Crime of Attacking Protected Objects

This report documents the destruction of 33 religious buildings and four clinics in Karenni State. In one emblematic incident, the Burmese military deliberately burned down a Catholic church and two other religious buildings in Hpruso township in June 2022 in a reprisal attack.



**Photo:** Junta forces burn a church in Hpruso township.

47. Prosecutor v. Mbarushimana, ICC PT. Ch. I, Decision on the Confirmation of Charges, ICC-01/04-01/10- 465-Red, 16 December 2011, [143] and Prosecutor v. Martić (Case No. IT-95-11-R61), ICTY T. Ch., Decision, 8 March 1996 [15-17].

48. Article 13(2) of Additional Protocol II to the 1949 Geneva Conventions, UNTS No. 17513, vol. 1125, p. 609. Klamberg (ed), *Commentary on the Law of the International Criminal Court*, 164.

International humanitarian law protects cultural property and attacking protected objects constitutes a war crime under the ICC Rome Statute.<sup>49</sup> ‘Protected objects’ include hospitals, clinics, buildings dedicated to religion or education, and historic monuments, provided they are not military objectives.<sup>50</sup> The Burmese military’s attacks on religious buildings and clinics constitute the war crime of attacking protected objects.

### *War Crime of Pillaging*

Civilian properties have been frequently looted by Burmese military soldiers in the aftermath of armed clashes. Pillaging is prohibited under customary international law and constitutes a war crime under the ICC Rome Statute.<sup>51</sup>

### *Unlawful Killings as a War Crime and Crime Against Humanity*

This report documents the unlawful killing of 115 Karenni civilians while in military custody, including in three mass killing incidents. The unlawful killings of at least another 85 Karenni civilians occurred in the context of military operations, as a consequence of indiscriminate attacks and attacks directed at civilians.

These unlawful killings constitute multiple war crimes of murder perpetrated by Burmese military soldiers.<sup>52</sup> They likely also reach the threshold for the crime against humanity of murder, particularly when examined in the context of the wider pattern of unlawful killings documented across the country.<sup>53</sup> Among others, the UN Special Rapporteur on the human rights situation in Myanmar, the Independent Investigative Mechanism for Myanmar (IIMM) and Human Rights Watch have pointed out that killings and other abuses committed against civilians during post-coup repression are part of a widespread and systematic attack against a civilian population.<sup>54</sup>

49. Article 8 (2)(e)(iv) of the Rome Statute and ICC Elements of Crimes, (2011) Article 8 (2)(e)(iv).

50. A school may become a legitimate military target if it is used to store weapons, for example. However, before a party to a conflict can respond by attacking, it has to give a warning with a time limit, and the other party has to have ignored that warning. International norms are developing in this area. 116 States have endorsed the Safe Schools Declaration, to end the military use of schools and to protect education amid armed conflict. See <<https://www.icrc.org/en/document/ihl-rules-of-war-faq-geneva-conventions>> and <<https://ssd.protectingeducation.org/>>.

51. ICRC, Customary International Humanitarian Law Rule 52. Pillage is prohibited. ICC Rome Statute, Article 8(2)(e)(v).

52. Article 8 (2)(c)(i) of the Rome Statute and ICC Elements of Crimes, (2011) Article 8 (2)(c)(i).

53. See for example, Chin Human Rights Organisation, ‘Collective Punishment: Implementation of “Four Cuts”’ (March 2022), Karen Human Rights Group, Undeniable: War crimes, crimes against humanity and 30 years of villagers testimonies in rural Southeast Burma” (December 2022), Assistance Association of Political Prisoners-Burma, “Accountability for the Junta Criminals”: Evidence of Crimes Against Humanity Perpetrated by the Armed Wing of the Junta in Burma Since the 2021 Coup (July 2022),

54. See <<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26885&LangID=E>> and <[https://iimm.un.org/wp-content/uploads/2021/08/A\\_HRC\\_48\\_18\\_E.pdf](https://iimm.un.org/wp-content/uploads/2021/08/A_HRC_48_18_E.pdf)> and <<https://www.hrw.org/news/2021/07/31/myanmar-coup-leads-crimes-against-humanity>>

### *Arbitrary Deprivation of Liberty as a Crime Against Humanity*

This report documents the arbitrary arrest and detention of 260 Karenni civilians, including at least 33 women.

Arbitrary arrest and detention of civilians is not considered a war crime in the context of an internal conflict. However, arbitrary deprivation of liberty is prohibited under customary international law, based on international human rights law and State practice.<sup>55</sup> Imprisonment or other severe deprivation of liberty is a crime against humanity, when the required contextual and mental elements are met.<sup>56</sup> A person has been arbitrarily deprived of their liberty when there is no legal basis for their arrest and/or detention (or when domestic legislation used to justify detention does not conform with international human rights standards); or when international norms on the right to a fair trial are not followed.

The arbitrary deprivation of liberty of 260 Karenni civilians is part of a systematic pattern documented on a massive scale across the country by various human rights organizations. By the end of December 2022, the Assistance Association for Political Prisoners (Burma) (AAPP) had recorded that more 13,200 people were held in detention.<sup>57</sup> Fortify Rights concluded that such detentions constitute the crime against humanity of imprisonment or arbitrary deprivation of liberty.<sup>58</sup>

### *Torture as a War Crime and Crime Against Humanity*

This report documents torture of Karenni civilians in military custody, including while being used as forced labor and human shields. In one emblematic case, six Karenni IDPs – including a teenage boy - endured torture over a seven-day period, resulting in severe head injuries. Soldiers tortured the men while also using them as forced labor and human shields.

Torture constitutes a war crime when the perpetrator inflicted the pain or suffering for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.<sup>59</sup> The torture endured by Karenni civilians documented in this report was usually meted out for the purposes of punishment or coercion and amounts to the war crime of torture. It may also amount to the crime against humanity of torture,

55. Rule 99. See <[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule99](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule99)> accessed 12 December 2022.

56. ICC Rome Statute, Article 7(1)(e).

57. AAPP, Daily Briefing in Relation to the Military Coup (30 December 2022).

58. Fortify Rights, ‘“Nowhere is Safe”: The Myanmar Junta’s Crimes Against Humanity Following the Coup d’Etat’ (March 2022). See also Assistance Association of Political Prisoners-Burma, “Accountability for the Junta Criminals”: Evidence of Crimes Against Humanity Perpetrated by the Armed Wing of the Junta in Burma Since the 2021 Coup (July 2022).

59. ICC Elements of Crimes, Article 8(2)(c)(i)-4.



when considered as part of a wider pattern of conduct by military perpetrators documented across the country by other human rights organizations.<sup>60</sup>

### Forced Labor and the Use of Human Shields as a War Crime and Crime Against Humanity

This report documents how at least 65 Karenni civilians – including women and children – were used as forced labor and human shields by Burmese military soldiers in seven separate incidents.

Customary international humanitarian law prohibits the use of human shields as well as abusive forced labor in internal armed conflicts.<sup>61</sup> In its judgment in the *Simić* case, the International Criminal Tribunal for the former Yugoslavia (ICTY) found that, “certain types of forced labor may amount to cruel and inhumane treatment if the conditions under which the labor is rendered are such as to create danger for the life or health of the civilians, or may arouse in them feelings of fear, and humiliation. . . . Forcing protected persons to work in life-threatening circumstances fails to meet the obligation for protection against acts of violence and may result in inflicting upon these persons physical and mental suffering.”<sup>62</sup> Similarly, in its judgment in the *Blaškić* case the ICTY found that forcing civilians to serve as human shields inflicted considerable mental suffering and constituted cruel treatment.<sup>63</sup>

The incidents documented in this report constitute the war crime of cruel treatment under the Rome Statute of the ICC.<sup>64</sup> They may also constitute the crimes against humanity of enslavement and inhumane acts.

In its judgment in the *Kunarac et al* case, the ICTY found that forced or compulsory labor can rise to the level of enslavement as a crime against humanity.<sup>65</sup> The ICC Elements of Crimes for the crime against humanity of enslavement also provide examples: “such as by purchasing, selling, lending or bartering [...] a person or persons or by imposing on them a similar deprivation of liberty” and adds that “[i]t is understood that such deprivation of liberty may, in some circumstances, include

exacting forced labor.”<sup>66</sup> In its judgment in the *Taylor* case, the Special Court for Sierra Leone found that being forced to carry loads in circumstances in which the victims were deprived of their liberty by armed men was evidence of the crime of enslavement.<sup>67</sup> This echoes the experiences of Karenni civilians forced to serve as porters and guides for Burmese military soldiers.

The use of human shields may also constitute the crime against humanity of inhumane acts, intentionally causing great suffering, or serious injury to body or to mental or physical health.<sup>68</sup> In its Pre-Trial Chamber decision in the *Katanga* case, the ICC clarified that “inhumane acts are to be considered as serious violations of international customary law and the basic rights pertaining to human beings” of similar gravity and nature to the other underlying acts of crimes against humanity.<sup>69</sup> Given that the use of human shields is a serious violation of international humanitarian law, it may meet the threshold of the crime against humanity of inhumane acts (provided that the contextual and mental elements are met).

### The Use of Landmines as a War Crime

This report documents 22 landmine incidents that killed four civilians and seriously injured 70, including children.

Customary international humanitarian law prohibits the use of weapons that are by nature indiscriminate.<sup>70</sup> Landmines are victim-activated weapons that cannot distinguish between civilians and combatants, and as such are inherently indiscriminate weapons. Although the use of landmines is not yet specifically enumerated as a crime in the ICC Rome Statute, when perpetrators use landmines to deliberately target civilians this may amount to the war crime of attacking civilians. International human rights organizations are increasingly calling for the use of landmines to attack civilians in armed conflicts to be investigated as such.<sup>71</sup>

60. See AAPP, Fortify Rights, CHRO, and KHRG reports previously cited, as well as Amnesty International, ‘“Bullets Rained From the Sky”: War Crimes and Displacement in Eastern Myanmar’ (May 2022).

61. International Committee of the Red Cross. See < <https://casebook.icrc.org/glossary/human-shields>>. In the context of non-international armed conflicts, Additional Protocol II provides that persons who are deprived of their liberty for reasons related to the armed conflict “shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population”. Rule 95. Uncompensated or abusive forced labor is prohibited. See <<https://ihl-databases.icrc.org/en/customary-ihl/v1/rule95>> accessed 13 December 2022. See also Prosecutor v. Simić, IT-95-17/1-T, Judgment (Trial) [90].

62. Prosecutor v. Simić, ICTY, IT-95-17/1-T, Judgment (Trial) [91].

63. Prosecutor v. Blaškić, ICTY, Case No. IT-95-14-T, Judgment, Trial Chamber I, March 3, 2000 [716]. See also Prosecutor v. Kordić and Čerkez, ICTY, Case No. IT-95-14/2-T, Judgment, Trial Chamber III, February 26, 2001 [256].

64. Article 8 (2)(c)(i) of the Rome Statute and ICC Elements of Crimes, Article 8 (2)(c)(i)(3).

65. Prosecutor v. Kunarac et al., IT-96-23/IT-96-23/1, Judgment, 22 February 2001, [541-542].

66. ICC Elements of Crimes, Article 7(1)(c). In its judgment in the *Kunarac et al* case, the ICTY found that forced or compulsory labour can rise to the level of enslavement as a crime against humanity.

67. SCSL, Prosecutor v. Taylor, SCSL-03-1-T, Judgment, 18 May 2012, [1663, 1764].

68. ICC Elements of Crimes, Article 7 (1)(k).

69. Katanga and Ngudjolo, ICC PT. Ch. I, Decision on the Confirmation of Charges, ICC PT. Ch. I, ICC-01/04-01/07-717, 30 September 2008 [448].

70. Rule 71. The use of weapons which are by nature indiscriminate is prohibited. See < [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule71#Fn\\_8ACA2B68\\_00035](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule71#Fn_8ACA2B68_00035)> accessed 13 December 2022.

71. Human Rights Watch, ‘Libya: Russia’s Wagner Group Set Landmines Near Tripoli; ICC Prosecutor Should Investigate Use of Unlawful Mines, Booby Traps’ (31 May 2022) available at < <https://www.hrw.org/news/2022/05/31/libya-russias-wagner-group-set-landmines-near-tripoli>> and Amnesty International, ‘Myanmar: Military’s use of banned landmines in Kayah State amounts to war crimes’ (20 July 2022) available at < <https://www.amnesty.org/en/latest/news/2022/07/myanmar-militarys-use-of-banned-landmines-in-kayah-state-amounts-to-war-crimes/>> accessed 13 December 2022.



## *Forced Displacement as a War Crime and Crime Against Humanity*

The atrocity crimes perpetrated by the Burmese military against the Karenni population have forcibly displaced at least 180,000 Karenni civilians at the time of writing, more than 40 percent of the total Karenni population. This in itself amounts to the war crime of displacing civilians, given the conduct by the military outlined in this report which forced the civilian population to flee. The ICC Rome Statute prohibits the displacement of the civilian population in the context of an internal armed conflict, unless the security of the civilians involved or imperative military reasons so demand, both of which are exceptional circumstances.<sup>72</sup>

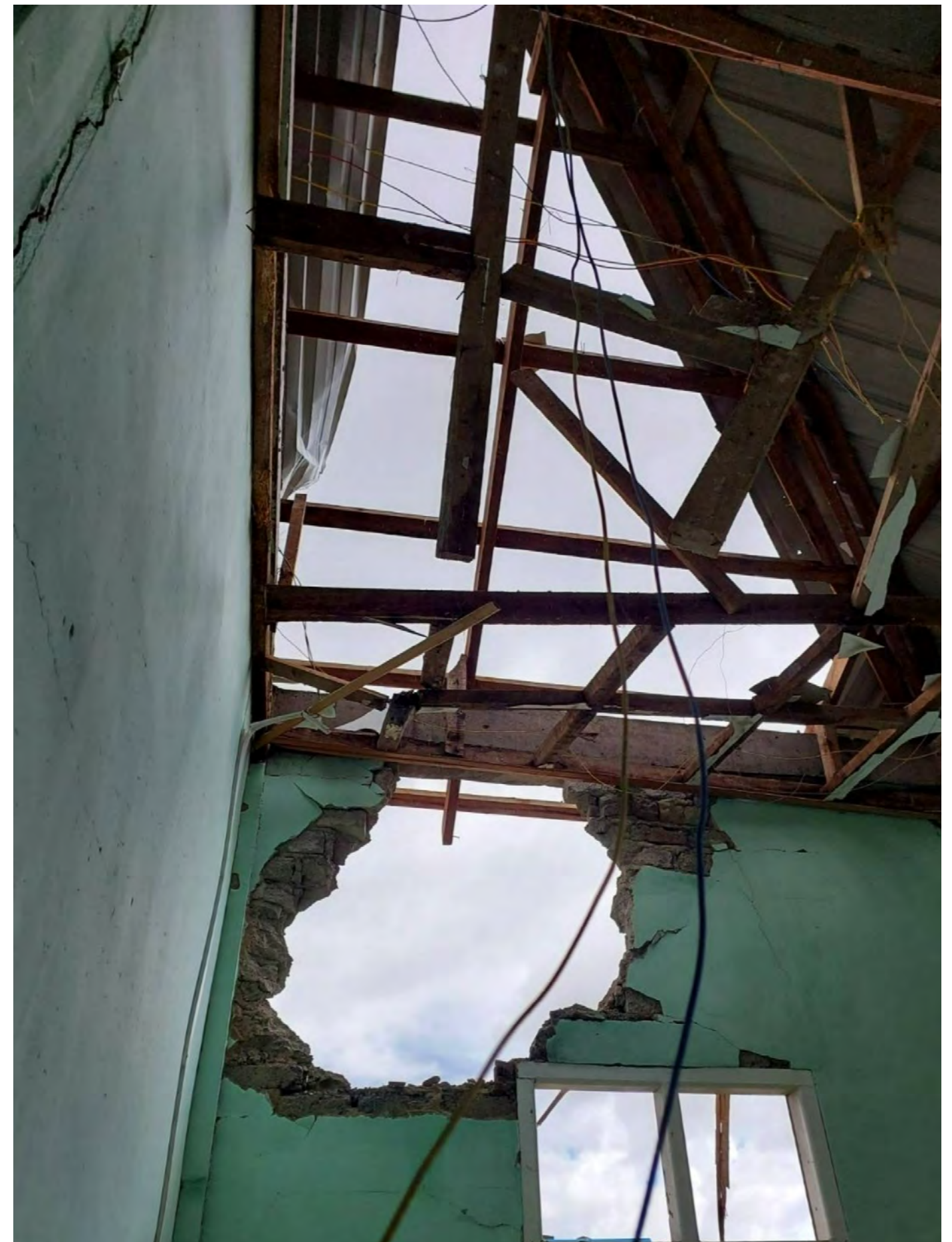
The scale of the displacement of the Karenni population is such that it may also meet the legal threshold for the crime against humanity of deportation or forcible transfer of population. Under the ICC Rome Statute, “[d]eportation or forcible transfer of population’ means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.”<sup>73</sup>

The coercive acts detailed in this report as part of a course of conduct by the Burmese military forcibly displaced a large number of Karenni civilians from a relatively small geographical area. As such, based on the evidence presented in this report it is reasonable to conclude that the crime against humanity of forcible transfer of population has been committed against the Karenni population.

In summary, based on the findings of this report it is reasonable to conclude that members of the Burmese military have committed the war crimes of attacking civilians, attacking protected objects, pillaging, murder, torture, cruel treatment and displacing civilians in Karenni State. The conduct of the Burmese military likely also constitutes the crimes against humanity of imprisonment or arbitrary deprivation of liberty, murder, torture, enslavement, other inhumane acts, and forced displacement when considered in the context of a widespread or systematic ‘attack’ against the civilian population in Burma, committed with the requisite knowledge of the attack.

72. Klamberg et al, op. cit. 142.

73. Rome Statute Article 7(2)(d), op. cit.



**Photo:** A clinic heavily damaged by an airstrike in eastern Loikaw.



## Conclusions and Recommendations

The regime's daily offensives against Karenni communities are a calculated form of collective punishment. Like many ethnic people in Burma, our communities have felt the worsening impacts of the attempted coup and the threats to their existence. Every day, the Karenni population faces numerous human rights violations amounting to atrocity crimes. The international community must recognize that human rights violations, war crimes, and crimes against humanity are committed by the Burmese military against Karenni civilians with total impunity. The Burmese military is emboldened by the safety net of impunity it has created for itself within the domestic legal system.

Impunity and the lack of rule of law in Burma means that Burmese military perpetrators face no consequences for their actions, leaving civilians, and women and children in particular, in grave danger. Preventing further sexual violence against women requires real accountability for the perpetrators. Until reliable protection pathways and systems are established, Karenni women will continue to be victims of sexual violence at the hands of the military.

The international community must not forget that the Burmese military has consistently sought to undermine peace and security efforts in Burma. International actors must take concrete steps that go beyond mere 'statement diplomacy' to protect the thousands of civilians who live with the daily threat of being murdered by the military regime. Such concrete steps include imposing a coordinated global arms embargo on the Burmese military and sanctioning aviation fuel supply in a bid to end deadly air strikes.

The threat of further attacks by junta forces creates a volatile environment for the displaced. The needs of IDPs - particularly women and children, who form up to 70 percent of the Karenni displaced population - must be urgently addressed to help them to rebuild their lives in safety and with dignity. These include healthcare assistance and psychosocial support and trauma healing for displaced communities.

The Karenni people hope for a future where they are safe from harm and no longer have to live under the constant threat of the Burmese military's presence. To achieve true human security for the Karenni people, there must be an end to armed conflict and military occupation. Likewise, for mental and physical health, civilians must have access to protections that ensure their safety and security with dignity. Their homes and land - often the source of many Karennis' livelihoods - must be protected. There must be reliable, unrestricted access to health and education services, as well as economic opportunities. Fundamental human rights, such as freedom of expression, and the right to live freely without discrimination or prejudice, must be protected.

We urge the international community to acknowledge that the junta is responsible for human rights violations amounting to atrocity crimes. There must be justice and accountability to end the cycle of impunity. The Burmese military can commit these atrocity crimes because the international community does not hold them accountable, even though it has a legal and moral obligation to do so. It has become abundantly clear that past strategies and condemnation from global actors are not working. Therefore, a series of important steps must be taken to ensure that individual perpetrators from the Burmese military are held accountable. This includes via referral of the situation in Burma to the International Criminal Court, which provides a pathway to justice and reparations for the thousands of victims. Without justice and accountability, there can be no lasting peace. Our Karenni communities want to live in peace with the full enjoyment of fundamental human rights.

### *To the United Nations Security Council:*

1. In line with its mandate to maintain international peace and security, take concrete actions to protect the people of Burma in accordance with UN Security Council Resolution (UNSCR) 1325 on women, peace and security and UNSCR 1674 on the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.
2. Pass a UN Security Council resolution to enact specific measures:
  - Impose a no-fly zone over Burma;
  - Impose a comprehensive coordinated arms embargo on Burma;
  - Sanction the supply of aviation fuel to the Burmese military to limit its ability to launch airstrikes against civilian populations, including IDPs;
  - Formally designate a safe zone for internally displaced persons in Karenni State under United Nations agencies' management, to which junta forces are denied access;
  - Refer the situation in Burma to the International Criminal Court.

The prospect of a veto by one or more Security Council members should not deter other members from placing a strong resolution before the Council for discussion and a vote.

## *To the International Community*

1. In line with obligations under UNSCR 1325, fully integrate the gender perspective in responding to the conflict and humanitarian crisis in Burma. Pay particular attention to protection of the rights of women and children, prevention of sexual and gender-based violence, equal participation for women as key stakeholders in decision-making processes, and the rehabilitation needs of women and children;
2. Consult with local civil society organizations for accurate, up-to-date information about the humanitarian crisis and human rights situation on the ground in Karenni areas;
3. Avoid channelling humanitarian aid via international bodies required to sign a Memorandum of Understanding with the junta. Provide direct funding to local civil society and community-based organizations for the distribution of cross-border humanitarian aid, to minimize overheads and maximise support reaching the internally displaced populations in Karenni areas;
4. Increase direct funding and support to local civil society and community-based organizations to meet the following needs of internally displaced populations in Karenni areas:
  - Sufficient nutritional food rations, clean water supply, shelter materials and sanitation facilities;
  - Healthcare assistance, medicines and medical supplies, including dignity and personal hygiene kits, delivery kits, nutrition packs for children and the elderly, as well as sexual and reproductive health services for women;
  - Psychosocial support and trauma healing for displaced communities, including for victims of torture and sexual and gender-based violence;
  - Rehabilitation and physiotherapy support for victims with life-changing injuries and disabilities;
  - Special considerations for women's safety and dignity in temporary shelters and communal areas of IDP sites;
  - Education assistance for children and young people.
5. Increase funding to local civil society organizations for human rights education, human rights documentation, and advocacy work, coupled with targeted long-term psychosocial assistance for victims of torture and sexual and gender-based violence to support and empower them to speak out about the violations they have experienced;

6. Impose further coordinated targeted sanctions against the military and its leadership, specifically targeting Myanmar Oil and Gas Enterprises;
7. Impose a coordinated comprehensive global arms embargo on the Burmese military;
8. Sanction aviation fuel supply to the Burmese military to limit its ability to launch airstrikes against civilian populations, including IDPs;
9. Support international justice and accountability efforts by:
  - Recommending the International Criminal Court accept the declaration lodged by the National Unity Government of Burma, under Article 12(3) of the Court's Rome Statute, accepting the Court's jurisdiction concerning international crimes committed in Burma territory since 1 July 2002;
  - Proposing a UN Security Council resolution that refers the situation in Burma to the International Criminal Court;
  - Publicly supporting the creation of an ad hoc international tribunal through the UN General Assembly or UN Human Rights Council, should a UN Security Council resolution on ICC referral fail;
  - Exercising universal jurisdiction to investigate any individual from Burma – irrespective of position or rank - who may be responsible for committing genocide, war crimes, and crimes against humanity under international law, including in Karenni State.

## *To ASEAN and its Member States*

1. Disbar Burmese military junta representatives from all ASEAN summits and meetings. Take measures to suspend Burma's membership at ASEAN until the military regime accepts the NUG as the legitimate government;
2. Engage with a legitimate representative from the NUG and invite them to fill the seat of Burma at ASEAN summits and/or special meetings;
3. Disregard the failed Five Point Consensus and develop a new course of action in consultation with civil society that will enforce coordinated, tangible steps to hold the military regime accountable for its crimes and support the country's transition to a peaceful federal democratic state;
4. As a neighboring State, Thailand should close its air space to Burmese junta forces in a bid to protect IDP and refugee populations in border areas from air strikes;



5. Respect the principle of non-refoulement and provide protection and support for refugees from Karenni areas and other parts of Burma seeking refuge within the borders of ASEAN Member States;
6. Take concrete action in coordination with international bodies such as the United Nations Security Council, UN General Assembly and the United Nations Human Rights Council, to end military violence in Burma.

### *To the National Unity Government of Burma and the National Unity Consultative Council*

1. In line with obligations under UNSCR 1325, ensure that all armed groups under their control fully respect international law and take special measures to protect women and children from sexual and gender-based violence;
2. Consult with Karenni-based civil society organizations for accurate, up-to-date information about the humanitarian crisis and human rights situation on the ground in Karenni areas and coordinate with them to support conflict-affected communities;
3. Advocate for a designated safe zone for internally displaced persons in Karenni areas under United Nations agencies' management;
4. Ensure a minimum 30 percent representation of women at decision-making levels across all sectors;
5. Establish an inclusive federal democracy for all stakeholders, including all ethnic nationalities across Burma;
6. Ensure the unconditional release of all political prisoners;
7. Reform the national justice system to be in line with international human rights standards and respect for the rule of law, with particular attention to justice for women who have suffered sexual and gender-based violence and their rights under CEDAW.

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# *“How can we survive in the future?”*

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*Atrocity Crimes in Karenni State*



A report by the Karenni Human Rights Group, the Karenni National Women's Organization, the Kayan Women's Organization & the Kayah State Peace Monitoring Network